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Letter dated 7 January 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Malaysia, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

02-22657 (E) 190402

Annex

Letter dated 4 January 2002 from the Chargé d'affaires a.i. of the Permanent Mission of Malaysia to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instructions from my Government, I hereby have the honour of enclosing the Government of Malaysia's report to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

My Government stands ready to provide the Committee with further reports or information, as necessary or if requested to do so by the Committee.

(*Signed*) **Zainuddin** Yahya
Chargé d'affaires a.i.

Enclosure

Report submitted to the Counter-Terrorism Committee pursuant to United Nations Security Council resolution 1373 (2001)

Obligations under UN Security Council Resolution 1373 (2001)	*Applicable domestic law*	*Penalty*	*Comments*
Paragraph 1(a): States should prevent and suppress the financing of terrorist acts	(a) **Internal Security Act 1960** • There is a definition of "terrorist" in S2 of the ISA but it does not appear to cover international terrorism. ♦ "terrorist" means any person who – (a) by the use of any firearm, explosive or ammunition acts in a manner prejudicial to the public safety or to the maintenance of public order or incites to violence or counsels disobedience to the law or to any lawful order; (b) carries or has in his possession or under his control any firearm, ammunition or explosive without lawful authority therefor; or (c) demands, collects or receives any supplies for the use of any person who intends or is about to act, or has recently acted, in a manner prejudicial to public safety or the maintenance of public order • S8 and S73 empower the preventive detention of persons suspected of acting in any manner prejudicial to –	• S44A – General penalty for offences under Part II (S3-46) ♦ Fine not exceeding RM1000; or ♦ Imprisonment for a term not exceeding 1 year; or ♦ Both	1. The Act does not directly address the financing of terrorist acts. But it does enable action to be taken against such activities. 2. The aim of the ISA is to counter the communist insurgency, subversive elements and threats prejudicial to national security and ISA is utilized to detain persons with a view to preventing them from acting in any manner prejudicial to Malaysia's national security, maintenance of essential services or the economic life of Malaysia or as a preventive measure. 3. Section 62 only applies if the offence is committed in a declared security area.

- Malaysia's national security
- maintenance of essential services
- the economic life of Malaysia.

- S38 provides that any officer or person authorized to exercise the powers of entry or investigation under S36 may seize any document or other thing in respect of which he reasonably believes an offence to have been committed under Chapter IV of the Act (S32-41)- or any order made thereunder or which he reasonably believes to be or to contain evidence relating to such an offence:

  Provided that nothing in this section shall be deemed to affect the powers of a police officer under the Criminal Procedure Code.

- S62 provides that no person, knowing or having reasonable cause to believe that another person has committed an offence against Part III of the Act shall, whether within or outside a security area, give that other person any assistance with intent thereby to prevent, hinder or interfere with the apprehension, trial or punishment of that person for the said offence.

- S76 provides for the inspection of bankers' books for the purposes of the Act by empowering the Minister, if he is satisfied that any evidence of the commission of an offence against this Act or against any written law for the time being specified in the Second Schedule is likely to be found in any banker's book, by order authorize any police officer to

- S63A – General penalty for offences under Part III (S47-71)
  - Fine not exceeding RM5000; or
  - Imprisonment for term not exceeding 3 years; or
  - Both

		inspect any such book, and a police officer so authorized may, at all reasonable times, enter the bank specified in the order and inspect the banker's books kept therein, and may take copies of any entry in any such book.			
		(b) **Penal Code**			
		• S120A provides for criminal conspiracy, as an offence. Acts of persons who cooperate with a terrorist who may be elsewhere by way of an agreement to commit an unlawful act is said to be conspiring with the terrorist.	♦ S120B(1) – if the penalty for the offence that is to be committed is death or imprisonment for 2 years or upwards - ♦ the same penalty as if he had abetted the offence ♦ S120B(2) – if the penalty for the offence that is to be committed is other than death or imprisonment for 2 years or upwards- ♦ imprisonment for a term not exceeding 6 months, or with fine, or with both	1. The Code does not directly address the financing of terrorist acts. But it does enable action to be taken against such activities.	
		• S125 criminalizes the waging of war, or attempts or abetments thereof, against the Government of any power in alliance or at peace with the Yang di-Pertuan Agong, whether in conjunction with the enemies of the Yang di-Pertuan Agong* or otherwise. *Yang di Pertuan Agong is the Supreme Head of the Federation	• Imprisonment for life, to which fine may be added; or • With imprisonment for a term which may extend to twenty years, to which fine may be added; or • With fine	2. This section applies to any person who wages war or attempts to wage war against the government of any power in alliance or at peace with the Yang di-Pertuan Agong. 3. The offences provided for would cover offences committed domestically and in the case of offences under S120A, S125 and S126, may extend to offences committed on a foreign territory.	
		• S125A makes it an offence to "harbour" or attempt to "harbour" the enemies of the Yang di-Pertuan Agong– ♦ in Malaysia or elsewhere; or ♦ in the territories of any power at war with, or otherwise in actual hostility against, the Yang di-Pertuan Agong.	• Imprisonment for life, to which fine may be added; or • With imprisonment for a term which may extend to twenty years, to which fine may be added; or • With fine	4. This section applies to any person who harbours the enemies of the Yang di-Pertuan Agong. 5. The term "harbour" is defined in S130A to include, *inter alia*, the supplying to a person with money (providing financial support). 6. The offences provided for would cover offences committed domestically and in the case of offences under S120A, S125 and S126, may extend to offences committed on a foreign territory.	

		• S126 criminalizes the commission of depredation (i.e. plundering, looting or ravaging) or any preparation to commit depredation, on the territories of any power in alliance or at peace with the Yang di-Pertuan Agong.	• Imprisonment for a term which may extend to seven years; and • Shall also be liable to a fine; and • Shall also be liable to forfeiture of – ♦ any property used, or intended to be used, in committing such depredation ♦ any property acquired by such depredation	7. This section applies to any person who commits depredation on the territories of any power in alliance or at peace with the Yang di-Pertuan Agong. 8. The offences provided for would cover offences committed domestically and in the case of offences under S120A, S125 and S126, may extend to offences committed on a foreign territory.	
		(c) **Banking and Financial Institutions Act 1989** • S99 provides that banking secrecy does not apply in the specified circumstances, which includes – ♦ where such disclosure is required or authorized under the Act ♦ where such disclosure is authorized in writing by the Central Bank to be made to a police officer investigating into an offence specified under federal law ♦ where such disclosure is authorized under any federal law to be made to a police officer investigating into an offence specified under that federal law • S99(2) and (3) make it an offence to disclose banking information other than as permitted under that section.	• S99 read with S103- ♦ Imprisonment for a term not exceeding 3 years or fine not exceeding RM3 million or with both ♦ Where the person found guilty is a body corporate, the punishment of imprisonment shall not apply to it		
		(d) **Offshore Banking Act 1990** • S15(1) prohibits a licensed offshore bank from accepting money on deposit or loan which is repayable on demand by cheque, draft, order or any other instrument drawn by the depositor on the licensed offshore bank	• S24(2) ♦ Imprisonment for a term not exceeding 5 years or a fine not exceeding RM10 million or to both	1. The Act does not directly address the financing of terrorist acts. But it does enable action to be taken against such activities. 2. An important aspect of combating terrorism is the surveillance and tracing of the funds of suspected terrorists.	

		• S15(2) prohibits a licensed offshore bank from opening an account for a customer whose identity is not known to the offshore bank • S21 of the Act restricts inquiry into transactions, in particular as to the identity, accounts and affairs of particular customers in the interest of protecting banking secrecy.	• In the case of a continuing offence, shall in addition, be liable to a daily fine not exceeding RM10,000 for each day the offence continues to be committed	3. The restrictions in S21, which might otherwise be viewed as an impediment in the prevention and suppression of terrorist acts, are to be read with S28B(4) and (5) of the Labuan Offshore Financial Services Authority Act 1996 (discussed below). Thus, the LOFSA is empowered to require disclosure of prescribed banking information if fraud or a "criminal offence" has been or is likely to be committed and to convey such information to the Central Bank of Malaysia. 4. "Criminal offence" is defined in S28A of the Labuan Offshore Financial Services Authority Act 1996 for the purposes of S28B.	
		(e) **Labuan Offshore Financial Services Authority Act 1996** • S4(5) provides the powers and functions of LOFSA. This provision empowers LOFSA to issue directions, notwithstanding any provision to the contrary in any other law relating to offshore financial services, to an offshore financial institution in respect of all or any of the following matters if it is satisfied that it is necessary to do so for the purpose of giving effect to the objectives of LOFSA: (a) the policy to be followed by the offshore financial institution relating to the conduct of the institution's business in Labuan; (b) the supervision and regulation of the offshore financial institution pursuant to the law relating to offshore financial services;		1. The Act does not directly address the financing of terrorist acts. But it does enable action to be taken against such activities. 2. An important aspect of combating terrorism is the surveillance and tracing of the funds of suspected terrorists. 3. This is possible under the Labuan Offshore Financial Services Authority Act 1996 which allows the lifting of the veil of secrecy to reveal the identity of the account holder and details of the transactions relating to that account when there is a reasonable suspicion that a crime has been perpetrated. 4. According to BNM and LOFSA, LOFSA has adopted in toto BNM's guidelines on "know your customer". 5. S28B may also be used by LOFSA to require greater transparency in the business of the offshore financial institutions. However secrecy is still paramount and the interest of the individual institution	

(c) the monetary policy to be given effect to by the offshore financial institution.

- S28A defines "criminal offence" to mean an offence under–
  - any law in Malaysia relating to offshore financial services, if such offence is punishable with imprisonment
  - the Penal Code
  - the Dangerous Drugs Act 1952
  - the Dangerous Drugs (Forfeiture of Property) Act 1988
  - the Kidnapping Act 1961.
- S28B empowers LOFSA, in the exercise of its supervisory functions under the Act or under any other law relating to offshore financial services, to require any financial institution or any corporation related to any financial institution to submit to LOFSA any information which it deems necessary or expedient for the performance of such supervisory functions.

  However, LOFSA cannot require any information which discloses the affairs, identity or account of a customer of such institution or corporation.

  This information may then be disclosed by LOFSA to –
- any person in a consolidated or aggregated manner if it deems fit to do so, but the disclosure shall be confined to such information which does not relate to an individual institution; or

that has submitted the information is safeguarded.

6. The only limited exception is where fraud or a criminal offence has been or is likely to be committed.

- to the home monetary authority of the institution, and the disclosure may include any information which relates to an individual institution under the supervision of the home monetary authority.

  Notwithstanding these safeguards for banking secrecy, under subsection 28B(4), if LOFSA is satisfied based on the evidence made available to it, that fraud or a criminal offence has been or is likely to be committed, LOFSA may require the submission of any information relating to –

  - the affairs, identity or account of any particular depositor of any licensed offshore bank;
  - the affairs, identity or account of any policy owner of a licensee;
  - the affairs, account, dealing or particulars of a customer of or any person involved in the ownership or management of or deal with a trust company; or
  - the affairs, identity or account of any particular customer of a fund manager or the subscriber of the fund administered or managed by the fund manager.

- Further under S28B(5), if LOFSA is satisfied that fraud or a criminal offence has been or is likely to be committed, it may convey such information to the home monetary authority, the home supervisory authority or the domestic law enforcement agency.

		• S28C empowers the Director General of LOFSA or any person authorized by LOFSA to examine and inspect, under condition of secrecy, any financial institution or any corporation related to any financial institution to verify the information submitted under S28B • S28D provides for the appointment of investigating officers for the purpose of investigating offences under the Act and under any other law relating to offshore financial services	• S28D(6) makes it an offence to obstruct an investigating offices from exercising his duties under the Act • Fine not exceeding RM500,000; or • Imprisonment for a term not exceeding 6 months; or • Both	
		(f) **Anti-Money Laundering Act 2001** • S4 makes money laundering an offence • S7 provides for the appointment of a competent authority to, *inter alia* – ♦ receive and analyse information and reports from persons and reporting institutions under the Act ♦ send any information received to an enforcement agency if there is reason to believe or suspect that a transaction involves proceeds of an unlawful activity or a **serious offence** is being, has been or is about to be committed ♦ serious offence means one of the predicate offences specified in the Second Schedule ♦ Among these offences are corruption, drug trafficking, offences involving firearms and offences relating to the securities industry.	• S4(2) - ♦ Fine not exceeding RM5 million; or ♦ Imprisonment for a term not exceeding 5 years; or ♦ Both	1. The Act is not in operation yet. 2. The Act does not directly address the financing of terrorist acts. But it does enable action to be taken against such activities. 3. An important aspect of combating terrorism is the surveillance and tracing of the funds of suspected terrorists. 4. This is possible under the Act which establishes a Financial Intelligence Unit and empowers it to collect, analyze and disseminate information on suspicious, large and unusual transactions. The information is then transmitted to the relevant enforcement agency for purposes of investigating an offence of money laundering. 5. The predicate offences listed in the Second Schedule do not at present include the offences associated with terrorist acts under the Penal Code discussed above. 6. The Act makes provision for the identification, detection and freezing or seizure of any funds

			used or allocated for the purpose of serious offences as provided under the Act. Further, the Act requires financial institutions to identify usual or occasional customers and to pay attention to suspicious transactions. It also prohibits the opening of anonymous accounts and requires the identity of the account holder or beneficiary of the account to be identified through reliable means prescribed under the Act. It also requires the reporting to the Central Bank of Malaysia of all transactions above a specific threshold amount and/or of a suspicious nature. Any person leaving or entering Malaysia with cash or negotiable instruments above a specific threshold amount is to be reported to the Central Bank of Malaysia as well. In addition, the Act also overrides any obligation as to secrecy or other restriction on the disclosure of information imposed by any written law or otherwise.
1. The application and enforcement of all the laws cited in the Table above are subject to the rule of law and the principles of natural justice, with the Legislative, Executive and Judicial branches of Government acting as checks and balances. Further safeguards for due process are also enshrined in the Federal Constitution and incorporated into the relevant laws. **2. The application and enforcement of all the laws cited in the Table above also depend in each and every case on the facts and circumstances and the evidence available.** **3. Thus although not the ideal, Malaysia satisfies the requirements of paragraph 1(a) of this Resolution.**			
Paragraph 1(b): States should criminalize the willful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts	(a) **Internal Security Act 1960** • S59 makes it an offence for any person to collect or receive any supplies (including money) which raises a reasonable presumption that – ♦ he intends or is about to act or has recently acted in a manner prejudicial to public security or public order ♦ he intends the same for the use of any terrorist	• Death in cases where the supplies in respect of which he is convicted consist of firearms, ammunition or explosives • Imprisonment for life in other cases	1. The Act appears to directly address the financing of terrorist acts and it enables action to be taken against such activities. 2. Any person who carries out the collection or is directly or indirectly connected in such collection for or on behalf of a terrorist or a terrorist group, whether situated domestically or abroad, may fall within the ambit of the prohibition under this section.

	• There is a definition of "terrorist" in S2 of the ISA but it does not appear to cover international terrorism.		

1. The application and enforcement of all the laws cited in the Table above are subject to the rule of law and the principles of natural justice, with the Legislative, Executive and Judicial branches of Government acting as checks and balances. Further safeguards for due process are also enshrined in the Federal Constitution and incorporated into the relevant laws.

2. The application and enforcement of all the laws cited in the Table above also depend in each and every case on the facts and circumstances and the evidence available.

3. Thus although not the ideal, Malaysia satisfies the requirements of paragraph 1(b) of this Resolution.

Paragraph 1(c): States should freeze without delay **funds** and other financial assets or economic resources of – (a) persons who – • commit terrorist acts • attempt to commit terrorist acts • participate in terrorist acts • facilitate the commission of terrorist acts (i.e. the perpetrators) (b) entities owned or controlled, directly or indirectly, by the perpetrators (i.e. associated entities) (c) persons and entities acting on behalf of, or at the direction of the perpetrators and the entities owned or controlled, directly or indirectly, by the perpetrators (i.e. associated persons and entities).	(a) **Exchange Control Act 1953** • S44 of the Exchange Control Act 1953 empowers the Controller to give general or special directions prohibiting, either absolutely or to such extent as may be specified in the directions, the carrying out, except with permission granted by the Controller, of any order given by or on behalf of the Government of that country or territory or any person resident therein at the time when the directions were given or at any later time while these directions are in force, in so far as the order – (a) requires the person to whom the order is given to make any payment or to part with any gold or securities; or (b) requires any change to be made in the persons to whose credit any sum is to stand or to whose order any gold or securities are to be held, where he is satisfied that owing to the changes in the external or internal position of any country or territory, action is being, or is		1. The Act does not directly address the funds and other financial assets or economic resources of terrorists. But it does enable action to be taken against such activities. 2. S 44 of the Exchange Control Act 1953 ("the ECA") may only be invoked to freeze transactions in bank accounts if the Controller is satisfied that owing to the changes in the external or internal position of any country or territory, action is being, or is likely to be, taken to the detriment of the economic position of Malaysia. 3. The Act empowers the Controller to prohibit a licensed institution from complying with the directions of a foreign Government or a customer to move its or his funds or to carry out any transaction in relation to an account in Malaysia unless the written permission of the Controller has been obtained. 4. Thus any action under the Act is conditional on a change in the external or internal position of a foreign country to the detriment of the economic position of Malaysia. In the absence of such external or internal change in the situation of a foreign country, this section will

The funds to be frozen include funds derived or generated from property owned or controlled directly or indirectly by the perpetrators and the associated persons and entities.	likely to be, taken to the detriment of the economic position of Malaysia.		not be available for the freezing of bank accounts in Malaysia. 5. BNM has acted pursuant to Security Council Resolution 1373(2001) and 1378 (2001) by issuing circular letters dated 1 October 2001, 2 November 2001 and 23 November 2001 directing all licensed financial institutions and licensed offshore financial institutions to freeze the funds and financial resources, including funds derived or generated from property owned or controlled directly or indirectly, of the Specified Person, Specified Organizations, individuals and entities associated with the Specified Person or Specified Organizations unless the written permission of the Controller has been obtained.
	(b) **Anti-Corruption Act 1997** • S33 empowers the Public Prosecutor, **notwithstanding any other written law or rule of law**, to freeze any movable property, including any monetary instrument or any accretion to it, in the possession, custody or control of a bank if he is satisfied on information given to him by an officer of the Anti-Corruption Agency (ACA) that the movable property is the subject-matter of an offence under the Act or evidence thereof.	• S33(3) makes refusal to comply an offence- ◆ Fine not exceeding two times the amount which was paid out in contravention of the Public Prosecutor's order or RM50,000, whichever is the higher; or ◆ Imprisonment for a term not exceeding 2 years	1. The Act does not directly address the funds and other financial assets or economic resources of terrorists. But it does enable action to be taken against such activities.
	• S34 empowers the Public Prosecutor to authorize the seizure of any immovable property that is the subject-matter of an offence under the Act or evidence thereof • S36 provides for the forfeiture of any property that is proved	• S34(5) makes refusal to comply an offence- ◆ Fine not exceeding two times the value of the property in respect of which the Public Prosecutor's order had been contravened or RM50,000, whichever is the higher; or	

	to be the subject-matter of an offence or used in the commission thereof upon prosecution for the offence • S37 provides for the forfeiture of property that is frozen or seized under the Act if there is no prosecution or conviction ♦ If not so forfeited, it shall be released to the person from whom it was seized at the expiration of 12 months from the date of its seizure	♦ Imprisonment for a term not exceeding 2 years	
	(c) **Dangerous Drugs (Forfeiture of Property) Act 1988** • S3 makes it an offence to make use of property for an activity that constitutes a Scheduled offence • S4 makes it an offence to deal with, *etc.* illegal property • S5 empowers the court that convicts a person for an offence under section 3 or 4 to forfeit all the property which is the subject-matter of that offence or which has been used for the commission of that offence • S6 empowers a court to forfeit property which is the subject-matter of that offence or which has been used for the commission of that offence even if no person is convicted of a section 3 or 4 offence if the court is satisfied that the property is so tainted	• Imprisonment for a term of not less than 5 years and not more than 20 years • Imprisonment for a term of not less than 5 years and not more than 20 years	1. The Act does not directly address the funds and other financial assets or economic resources of terrorists. But it does enable action to be taken against such activities.
	(d) **Anti-Money Laundering Act 2001** • S44 empowers an enforcement agency, i.e. the Central Bank and other law enforcement agencies, to issue an order		1. The Act is not in operation yet. 2. The Act does not directly address the financing of terrorist acts. But it does enable action to be taken against such activities.

		freezing any property of any person if it reasonably suspects that person has, is or is about to commit the offence of money laundering • S45 empowers an investigating officer, in the course of investigating a money laundering offence, to seize any movable property that he reasonably suspects is the subject-matter of the offence or is evidence relating to the offence		3. The predicate offences listed in the Second Schedule do not at present include the offences associated with terrorist acts under the Penal Code discussed above.	
		• S48 empowers the Public Prosecutor, **notwithstanding any other written law or any rule of law**, if he is satisfied that it is necessary for the purpose of any investigation into a money laundering offence, to authorize an investigating officer to – ♦ investigate, inspect and take copies of banking records ♦ inspect the contents of any safe deposit box in a financial institution ♦ request for specific records or articles	• S48(4) makes refusal to comply an offence- ♦ Fine not exceeding RM1 million; or ♦ Imprisonment for a term not exceeding 1 year; or ♦ Both		
		• S49 empowers the Public Prosecutor, **notwithstanding any law or rule of law to the contrary**, if he has reasonable grounds to believe based on an investigation under the Act that a money laundering offence has been committed, to require certain persons to furnish a statement in writing on oath or affirmation setting out all their property in sufficient detail to be identified and located	• S49(3) makes refusal to comply an offence- ♦ Fine not exceeding RM1 million; or ♦ Imprisonment for a term not exceeding 1 year; or ♦ Both in the case of a continuing offence, to a further fine not exceeding RM1000 for each day during which the offence continues after conviction		
		• S50 empowers the Public Prosecutor, **notwithstanding any other law or rule of law**,	• S50(3) makes refusal to comply an offence-		

to freeze any movable property, including any monetary instrument or any accretion to it, in a financial institution if he is satisfied on information given to him by the investigating officer that the movable property is the subject-matter of a money laundering offence or is evidence thereof

- This power is to be exercised after consultation with the Central Bank of Malaysia, the Securities Commission or the Labuan Offshore Financial Services Authority, as the case may be.

- S51 empowers the Public Prosecutor to authorize the seizure of any immovable property that is the subject-matter of a money laundering offence or evidence thereof

- S55 provides for the forfeiture of any property that is proved to be the subject-matter of a money laundering offence or used in the commission thereof upon prosecution for the offence

- S56 provides for the forfeiture of property that is frozen or seized under the Act if there is no prosecution or conviction for a money laundering offence

- Fine not exceeding two times the amount which was parted with, dealt in or otherwise disposed of in contravention of the Public Prosecutor's order or RM1 million, whichever is the higher; or
- Imprisonment for a term not exceeding 1 year; or
- Both
- In the case of a continuing offence, to a further fine not exceeding RM1000 for each day during which the offence continues after conviction

- S51(5) makes refusal to comply an offence-
  - Fine not exceeding two times the value of the property in respect of which the Public Prosecutor's order had been contravened or RM1 million, whichever is the higher; or
  - Imprisonment for a term not exceeding 1 year; or
  - Both
  - In the case of a continuing offence, to a further fine not exceeding RM1000 for each day during which the offence continues after conviction

	♦ If not so forfeited, it shall be released to the person from whom it was seized at the expiration of 12 months from the date of its seizure • S59 empowers the Sessions Court to issue a pecuniary penalty order against a person from whom property is forfeited in respect of benefits derived by the person from the commission of a money laundering offence		
	(e) **Penal Code** • S126 criminalizes the commission of depredation (i.e. plundering, looting or ravaging) or any preparation to commit depredation, on the territories of any power in alliance or at peace with the Yang di-Pertuan Agong.	• Imprisonment for a term which may extend to seven years; and • Shall also be liable to a fine; and • Shall also be liable to forfeiture of – ♦ any property used, or intended to be used, in committing such depredation ♦ any property acquired by such depredation	1. This section applies to any person who commits depredation on the territories of any power in alliance or at peace with the Yang di-Pertuan Agong. 2. The offences provided for would cover offences committed domestically and in the case of offences under S120A, S125 and S126, may extend to offences committed on a foreign territory.
	(f) **Mutual Assistance in Criminal Matters Bill 2001** • The forfeiture of proceeds of unlawful activities may be carried out under the proposed Act on the request of a foreign State in respect of a serious offence or a foreign serious offence. • The requesting State need only present a foreign forfeiture order from the competent authority of that foreign State. • A "serious offence" is defined in the proposed Act as an offence that is punishable with death or a minimum sentence of imprisonment of one year.		1. The proposed Act is currently being drafted. 2. The proposed Act does not directly address terrorist acts. But it does enable international cooperation to be undertaken in investigations and prosecutions of such activities. 3. Assistance may be rendered if the prescribed conditions under the proposed Act are fulfilled, including dual criminality and reciprocity. 4. Such assistance generally covers assistance during investigation and prosecution but does not allow a "fishing expedition" during the investigation.

	• A "foreign serious offence" is to be designated by the certificate of the foreign State concerned. Thus, the MACMA could be invoked to deal with a foreign act of terrorism if the affected State were to classify it as a "foreign serious offence".		5. Pending the enactment and commencement of the proposed Act, a request for assistance may be made by way of a Letter of Request or Letters Rogatory under Order 66 of the Rules of the High Court 1980. However, the scope of assistance that may be provided thereunder is limited by the requirement that there must be a pending matter in the court. Hence this would not assist a requesting State if it were at the investigative stage only.
	(g) Kidnapping Act 1961 • S7 empowers the Public Prosecutor to direct a bank in Malaysia to freeze all transactions in relation to a bank account for a specified period not exceeding one month if he is satisfied that it is likely that money for the payment of ransom may be paid out of that bank account	• S7(3) makes failure to comply with the order an offence ♦ Fine not exceeding RM5000	1. The Act does not directly address terrorist acts. But it does enable action to be taken against such activities.
1. The application and enforcement of all the laws cited in the Table above are subject to the rule of law and the principles of natural justice, with the Legislative, Executive and Judicial branches of Government acting as checks and balances. Further safeguards for due process are also enshrined in the Federal Constitution and incorporated into the relevant laws. **2. The application and enforcement of all the laws cited in the Table above also depend in each and every case on the facts and circumstances and the evidence available.** **3. Thus although not the ideal, Malaysia satisfies the requirements of paragraph 1(c) of this Resolution.**			
Paragraph 1(d): States should prohibit their nationals or any persons and entities within their territories from making any – ♦ • funds ♦ • financial assets ♦ • economic resources ♦ • financial or other related services,	**(a) Penal Code** • S120A provides for criminal conspiracy, as an offence. Acts of persons who cooperate with a terrorist who may be elsewhere by way of an agreement to commit an unlawful act is said to be conspiring with the terrorist.	• S120B(1) – if the penalty for the offence that is to be committed is death or imprisonment for 2 years or upwards - ♦ the same penalty as if he had abetted the offence. • S120B(2) – if the penalty for the offence that is to be committed is other than death or imprisonment for 2 years or upwards-	1. The Code does not directly prohibit making funds and other financial assets or economic resources available to terrorists. But it does enable action to be taken against such activities.

• available, directly or indirectly – • for the benefit of persons who commit or attempt to commit, facilitate or participate in the commission of terrorist acts (i.e. the perpetrators)		• imprisonment for a term not exceeding 6 months, or with fine, or with both	
	• S125 criminalizes the waging of war, or attempts or abetments thereof, against the Government of any power in alliance or at peace with the Yang di-Pertuan Agong, whether in conjunction with the enemies of the Yang di-Pertuan Agong or otherwise.	• Imprisonment for life, to which fine may be added; or • With imprisonment for a term which may extend to twenty years, to which fine may be added; or • With fine	2. This section applies to any person who wages war or attempts to wage war against the government of any power in alliance or at peace with the Yang di-Pertuan Agong. 3. The offences provided for would cover offences committed domestically and in the case of offences under s120A, 125 and 126, may extend to offences committed on a foreign territory.
	• S125A makes it an offence to "harbour" or attempt to "harbour" the enemies of the Yang di-Pertuan Agong– ♦ in Malaysia or elsewhere; or ♦ in the territories of any power at war with, or otherwise in actual hostility against, the Yang di-Pertuan Agong.	• Imprisonment for life, to which fine may be added; or • With imprisonment for a term which may extend to twenty years, to which fine may be added; or • With fine	4. This section applies to any person who harbours the enemies of the Yang di-Pertuan Agong. 5. The term "harbour" is defined in section 130A to include, *inter alia*, the supplying to a person with money (providing financial support). 6. The offences provided for would cover offences committed domestically and in the case of offences under s120A, 125 and 126, may extend to offences committed on a foreign territory.
	(b) **Companies Act 1965** • S217(1)(h) provides for the winding up of a company under an order of the High Court on the petition of the Registrar of Companies on the ground specified in S218(1)(m) or (n)		1. The Act does not directly prohibit making funds and other financial assets or economic resources available to for the benefit of entities owned or controlled, directly or indirectly, by terrorists. 2. But winding up action can be taken against a company that has terrorist connections to prevent its continued operation in Malaysia.

	• S218(1) provides that the High Court may order the winding up of a company if – ♦ under paragraph (m), the company is being used for unlawful purposes or any purpose prejudicial to or incompatible with peace, welfare, security, public order, good order or morality in Malaysia; ♦ under paragraph (n), the company is being used for any purpose prejudicial to national security or public interest		

1. The application and enforcement of all the laws cited in the Table above are subject to the rule of law and the principles of natural justice, with the Legislative, Executive and Judicial branches of Government acting as checks and balances. Further safeguards for due process are also enshrined in the Federal Constitution and incorporated into the relevant laws.

2. The application and enforcement of all the laws cited in the Table above also depend in each and every case on the facts and circumstances and the evidence available.

3. Thus although not the ideal, Malaysia satisfies the requirements of paragraph 1(d) of this Resolution.

Paragraph 2(a): States should refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists	(a) **Societies Act 1966** • S2A imposes a duty on every registered society in carrying out its activities and in conducting its affairs to ensure that they are in accord with, and conducive to the fulfilment of and adherence to, the Federal Constitution and the State ConstitutionsS5 empowers the Minister to declare any society to be unlawful if in his opinion it is or is being used for purposes prejudicial to or incompatible with the interest of the security of Malaysia, public order or morality • S42 makes it an offence to be an office bearer of an unlawful society	• If any of the activities or affairs of any society is in any manner violative of, or derogatory to, or **militates against**, or shows disregard for, *inter alia*, the system of democratic government of Malaysia, the Registrar may cancel the registration of the society • Imprisonment for a term not exceeding 5 years; or • Fine not exceeding RM15000; or • Both	1. The Act does not directly prohibit the supporting of terrorists. But it does enable action to be taken against such activities. 2. The establishment of an unlawful society and recruitment of members into it have been criminalized under domestic law. 3. This Act will be relevant if the terrorist group has purported to register itself as a society to enable it to carry out its activities in Malaysia covertly.

	• S43 makes it an offence to ♦ be a member of an unlawful society ♦ attend a meeting of an unlawful society ♦ pay money or give aid to or for the purposes of an unlawful society	• Imprisonment for a term not exceeding 3 years; or • Fine not exceeding RM5000; or • Both
	• S44 makes it an offence to knowingly allow a meeting of an unlawful society or its members in any premises	• Imprisonment for a term not exceeding 3 years; or • Fine not exceeding RM10000; or • Both
	• S45 makes it an offence to incite, induce or invite another person to become a member or to assist in the management of an unlawful society	• Imprisonment for a term not exceeding 4 years; or • Fine not exceeding RM15000; or • Both
	♦ If violence, threat or intimidation is used, an enhanced punishment is imposed	• Imprisonment for a term not exceeding 5 years; or • Fine not exceeding RM15000; or • Both
	• S46 makes it an offence to procure or attempt to procure from any person any subscription or aid for the purposes of an unlawful society	• Imprisonment for a term not exceeding 3 years; or • Fine not exceeding RM10000; or • Both
	• S47 makes it an offence to print, publish, display, sell transmit by post or otherwise publicize the interests of an unlawful society	• Imprisonment for a term not exceeding 2 years; or • Fine not exceeding RM50000; or • Both
	• S48 makes it an offence to act on behalf , represent or assist an unlawful society	• Imprisonment for a term not exceeding 5 years; or • Fine not exceeding RM15000; or • Both

		• S53 makes it an offence for any office bearer or member of a registered society to misuse the money or property of a registered society • S13(1)(c) empowers the Registrar to cancel the registration of any registered society if the Registrar is satisfied that, *inter alia* – ♦ the registration was effected as the result of a fraud or a mistake or misrepresentation in any material particular ♦ the society is likely to be used for unlawful purposes or for purposes prejudicial to or incompatible with peace, welfare, good order or morality in Malaysia ♦ the society is pursuing objects other than the objects with which the society is registered	• Fine not exceeding RM5000		
		(b) **Arms Act 1960** • S3 makes it an offence to possess, have custody, control, carry or use arms or ammunition without an arms licence or arms permit • S4 deals with the licensing and permitting of arms by the Chief Police Officer of the relevant State • S5 controls the grant or renewal of arms licences • S7 imposes a duty to report lost or destroyed arms or	• S8 ♦ Imprisonment for a term not exceeding 7 years; or ♦ Fine not exceeding RM10,000; or ♦ Both • S8 ♦ Imprisonment for a term not exceeding 7 years; or ♦ Fine not exceeding RM10,000; or ♦ Both • S7(2)	1. The Act does not directly prohibit the supporting of terrorists. But it does enable action to be taken against such activities. 2. The unlawful manufacture, possession, custody, control, carriage and use of arms and ammunition have been criminalized under domestic law and are strictly regulated by the Royal Malaysia Police under the Act.	

ammunition. It also makes it an offence to wilfully obliterate, deface, alter, counterfeits or forge any manufacturer's identification mark on the weapon	• Imprisonment for a term not exceeding 2 years; or • Fine not exceeding RM2,000; or • Both
• S11 makes it an offence to sell or transfer arms or ammunition without a licence	• S11(5) • Imprisonment for a term not exceeding 2 years; or • Fine not exceeding RM2,000; or • Both
• S12 makes it an offence to manufacture arms or ammunition without a licence	• S14 • Death; or • Imprisonment for life and whipping with not less than 6 strokes • In the case of a company, firm, society or body of persons, a fine not exceeding RM500,000
• S15 makes it an offence to import arms or ammunition without a licence • S19 makes it an offence to export arms or ammunition without a licence	• S23 – contravention of S15 or 19 • Imprisonment for a term not exceeding 7 years; or • Fine not exceeding RM10,000; or • Both
• S24 makes it an offence to conceal arms or ammunition imported without a licence	• S24 • Imprisonment for a term not exceeding 7 years; or • Fine not exceeding RM10,000; or • Both
• S32 makes it an offence to make or attempt to make any use of an arm or imitation arm with intent to resist or prevent the lawful apprehension or detention of himself or any other person	• S32 • Imprisonment for life or for a term not exceeding 14 years o if it is a First Schedule offence • (Penal Code, Minor Offences Ordinance 1955) o Imprisonment for a term not exceeding 10 years in addition to any other penalty imposed under S32

		• S33 makes it an offence to possess, control or carry any arms or ammunition where it may be presumed that he intends to use it for any unlawful purpose • S35 makes it an offence for a person lawfully authorized to possess or control any arm or ammunition to lose it or have it stolen unless he can prove he took all reasonable precautions against the loss or theft • Other relevant provisions are S36, 37, 38, 40, 48, 49, 50, 51, 52, 53 and 54. (c) **Firearms (Increased Penalties) Act 1971** • The Act provides increased penalties for the use of firearms in the commission of certain offences and for certain offences relating to firearms	• S33 ♦ Imprisonment for a term not exceeding 7 years; or ♦ Fine not exceeding RM10,000; or ♦ Both ♦ Shall also be liable to whipping • S35 ♦ Imprisonment for a term not exceeding 1 year; or ♦ Fine not exceeding RM1,000; or ♦ Both • S3 imposes a death penalty on a person who discharges a firearm with intent to cause death or hurt to any person in the course of committing or attempting to commit or abetting the commission of the following offences– ♦ Extortion ♦ Robbery ♦ The preventing or resisting, by any person, of his own arrest or the arrest of another by a police officer or any other person lawfully empowered to make the arrest ♦ Escaping from lawful custody ♦ Abduction or kidnapping under sections 363 to 367 of the Penal Code and section 3 of the Kidnapping Act 1961 ♦ House breaking or house-trespass under sections 454 to 460 of the Penal Code. ("the Scheduled offences")	1. The Act does not directly prohibit the supporting of terrorists by eliminating the supply of weapons to them. But it does enable action to be taken against such activities. 2. The Act criminalizes the unlawful possession and use of firearms and provides enhanced penalties.	

- S3A imposes the death penalty on each accomplice where a person discharges a firearm with intent to cause death or hurt to any person in the course of committing or attempting to commit or abetting the commission of the Scheduled offence unless he proves that he had taken all reasonable steps to prevent the discharge.
- S4 imposes a punishment of imprisonment for life and with whipping with not less than 6 strokes on any person who exhibits a firearm in a manner likely to put any person in fear of death or hurt in the course of committing or attempting to commit or abetting the commission of the Scheduled offence.
- S5 imposes a punishment of imprisonment for life and with whipping with not less than 6 strokes on any person who has on his person a firearm at the time of his committing or attempting to commit or abetting the commission of the Scheduled offence.
- S6 imposes a punishment of imprisonment for a term which may extend to 10 years and with whipping with not less than 3 strokes on any person who exhibits an imitation firearm in a manner likely to put any person in fear of death or hurt in the course of committing or attempting to commit or abetting the commission of the Scheduled offence.
- S7(1) imposes a punishment of death or imprisonment for life and with whipping with not less than 6 strokes on any person who traffics in firearms
  - S7(2) provides that any person proved to be in unlawful possession of more than 2 firearms shall be presumed to be trafficking in firearms.

			• S8 imposes a punishment of imprisonment for a term which may extend to 14 years and with whipping with not less than 6 strokes on any person who is in unlawful possession of a firearm. • S9 imposes a punishment of imprisonment for a term which may extend to 14 years and with whipping with not less than 6 strokes on any person who consorts with, or is found in the company of, another person who is in unlawful possession of a firearm unless he proves that he had reasonable grounds for believing that such other person was not in unlawful possession of the firearm.		
		• The Act also makes special provision relating to the jurisdiction of courts in respect of offences under the Act and their trial	• S10 provides that a Sessions Court shall have jurisdiction to try all offences under the Act except offences under section 3 or 3A (of which jurisdiction is retained by the High Court) and to impose the full punishment provided except the penalty of death. • This however, does not prevent the High Court from assuming jurisdiction over those offences if the Public Prosecutor so requires.		
		• S12 provides that bail shall not be granted to an accused person charged with an offence under the Act			
		(d) **Corrosive and Explosive Substances and Offensive Weapons Act 1958** • The Act provides certain penalties relating to the unlawful possession of corrosive and explosive substances and the carrying of offensive weapons		1. The Act does not directly prohibit the supporting of terrorists by eliminating the supply of weapons to them. But it does enable action to be taken against such activities. 2. The Act criminalizes the unlawful possession of corrosive and explosive substances and the carrying of offensive weapons.	
		• S3 makes it an offence for a person to carry or have in his possession or under his control any corrosive or explosive	• Imprisonment for a term not exceeding 3 years and to whipping		

	substance in circumstances that raise a reasonable presumption that he intends to use or intends to enable some other person to use such substance for the purpose of causing hurt	
	• S4 makes it an offence for a person to – ◆ unlawfully and maliciously use or attempt to use any corrosive or explosive substance for the purpose of causing hurt; or ◆ cause or attempt to cause by an explosive substance an explosion of a nature likely to cause hurt	• Whether any hurt has actually been caused or not – ◆ Imprisonment for a term not exceeding 7 years and to whipping
	• S5 makes it an offence for a person to consort with, or to be found in the company of, another person who is carrying or has in his possession or under his control any corrosive or explosive substance in contravention of s3 in circumstances that raise a reasonable presumption that he knew that such other person was carrying or had in his possession or under his control any such substance unless he proves that he had reasonable grounds for believing that such other person was carrying or had in his possession or under his control any such substance for a lawful purpose	• Liable to the like punishment as that other person with whom he was consorting or in whose company he was found
	• S6 makes it an offence for a person to carry or have in his possession or under his control in any public road or place any offensive weapon otherwise than with lawful authority or for a lawful purpose	• Imprisonment for a term not exceeding 2 years and to whipping

	• S7 makes it an offence for a person to – ♦ carry or have in his possession or under his control; or ♦ manufacture, sell or hire or offer or expose for sale or hire; or ♦ lend or give to any other person, any scheduled weapon otherwise than for a lawful purpose [* "scheduled weapon" means one of the various kinds of knives or sharp instruments listed in the Second Schedule to the Act.]	• Imprisonment for a term not exceeding 2 years; or • Fine not exceeding RM2000; or • Both • In the case of a second or subsequent offence, imprisonment for a term of not less than 1 year and not more than 3 years
	• S8 makes it an offence for a person to consort with, or to be found in the company of, another person who is carrying or has in his possession or under his control any offensive weapon in contravention of s6 in circumstances that raise a reasonable presumption that he knew that such other person was carrying or had in his possession or under his control any such weapon unless he proves that he had reasonable grounds for believing that such other person was carrying or had in his possession or under his control any such weapon for a lawful purpose	• Liable to the like punishment as that other person with whom he was consorting or in whose company he was found
	• S10 provides for the disposal of any corrosive or explosive substance or any offensive weapon that is the subject of an offence under the Act to be made in accordance with the Criminal Procedure Code	
	• S11 provides for the statutory presumptions that where any	

corrosive or explosive substance is found on any premises, the occupier of such premises is deemed to be in possession of such substance unless he proves that –

- some other person was in possession thereof; or
- he had no knowledge or reasonable means of knowledge that such substance was in or on such premises,

and tha he had taken all reasonaule precautions against such substance being kept in or on such premises.

(e) **Explosives Act 1957**

- S3 empowers the Minister by notification in the *Gazette* to declare any substance to be dangerous by reason either of its explosive properties or of any process in connection with the manufacture thereof rendering it liable to explosion and thereby expand on the definition of the word "explosive" in the Act
- S4 empowers the Minister by notification in the *Gazette* to prohibit either absolutely or conditionally the manufacture, possession or import of any explosive –
  - which is used so as to cause danger or annoyance to the public; or
  - which is of so dangerous a character that in the opinion of the Minister it is expedient for the public safety to issue the notification

1. The Act does not directly prohibit the supporting of terrorists by eliminating the supply of explosives to them. But it does enable action to be taken against such activities.
2. The Act criminalizes the unlawful manufacture, use, sale, storage, transport, import and export of explosives.

• Any person who manufactures, possesses or imports any explosive in contravention of a S4 notification commits an offence	• Imprisonment for 5 years; or • Fine of RM10,000; or • Both
• The finding of any explosive which is subject to a prohibition under S4 in or on board any vehicle, vessel or aircraft shall be prima facie evidence that the vehicle, vessel or aircraft has been used for the import of the explosive contrary to the Act or for the receipt or storage of explosive imported contrary thereto	• If any vehicle, vessel or aircraft is used for the import of the explosive or for the receipt or storage of the imported explosive – ♦ the owner, master or captain thereof shall be liable to a fine of RM10,000 unless he proves to the satisfaction of the court that he was not implicated in the placing of the explosive on board the vehicle, vessel or aircraft and that the offence was committed without his knowledge, consent or connivance; and ♦ the vehicle, vessel or aircraft may be detained by order of the court until security has been given for such sum as the court orders, not exceeding RM10,000.
• S5 makes it an offence for a person to wilfully or negligently commit any act that tends to cause explosion or fire in or about any factory, magazine, hulk, vehicle, vessel, aircraft, storehouse, or shop or other premises containing explosives	• Imprisonment for 5 years; or • Fine of RM10,000; or • Both
• S6 makes it an offence for a person to unlawfully and maliciously cause by any explosive an explosion of a nature likely to endanger life or to cause serious injury to property	• Whether any injury to person or property has been actually caused or not ♦ Imprisonment for 7 years; or ♦ Fine of RM10,000; or ♦ Both
• S7 makes it an offence for a person to unlawfully and maliciously – ♦ do any act with intent to cause by any explosive, or conspire to cause by any explosive, an explosion of a	• Whether any explosion does or does not take place and whether any injury to person or property has been actually caused or not ♦ Imprisonment for 7 years; or ♦ Fine of RM10,000; or

	nature likely to endanger life or to cause serious injury to property; or ♦ make or have in his possession or under his control any explosive with intent by means thereof to endanger life, or cause serious injury to property or to enable any other person by means thereof to endanger life or cause serious injury to property • S8 makes it an offence for a person to make or knowingly have in his possession or under his control any explosive, under such circumstances as to give rise to a reasonable suspicion that he is not making it or does not have it in his possession or under his control for a lawful object unless he can show that he made it or had it in his possession or under his control for a lawful object • S17 empowers the convicting court to direct the forfeiture of the explosive, or ingredient of the explosive, or the substance (if any) in respect of which the offence has been committed, or any part of that explosive, ingredient or substance together with the receptacles containing it upon the conviction of a person for an offence under the Act • S22 provides a rebuttable statutory presumption that- ♦ a person proved to have had in his possession or under his control anything whatever containing any explosive is deemed to have been in possession of the explosive	♦ Both • Imprisonment for 7 years; or • Fine of RM10,000; or • Both		

	♦ the occupier of any house or premises in which any explosive is found is deemed to be the possessor of the explosive		
	(f) **Internal Security Act 1960**		1. The Act does not directly prohibit the supporting of terrorists. But it does enable action to be taken against such activities.
	• S57 makes it an offence to carry, possess or control a firearm or ammunition or explosive in a security area without lawful authority	• Death	2. The Act criminalizes the unlawful possession of arms.
	• S58 makes it an offence to consort with or to be found in the company of another person who is carrying, possesses or controls any firearm, ammunition or explosive in a security area without lawful authority	• If the intent is prejudicial to public security or the maintenance of public order ♦ Death or imprisonment for life • If otherwise, but with knowledge that the other person so possessed such arms, ammunition or explosives ♦ Imprisonment for a term not exceeding 10 years	
1. The application and enforcement of all the laws cited in the Table are subject to the rule of law and the principles of natural justice, with the Legislative, Executive and Judicial branches of Government acting as checks and balances. Further safeguards for due process are also enshrined in the Federal Constitution and incorporated into the relevant laws. **2. The application and enforcement of all the laws cited in the Table also depend in each and every case on the facts and circumstances and the evidence available.** **3. Thus although not the ideal, Malaysia satisfies the requirements of paragraph 2(a) of this Resolution.**			
Paragraph 2(b): States should take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information	(a) **Police Act 1967** • S3(3) imposes on the Royal Malaysia Police (RMP) the duty to – ♦ maintain law and order ♦ preserve the peace and security of Malaysia ♦ prevent and detect crime ♦ apprehend and prosecute offenders ♦ collect security intelligence.	• S94 - Disobeying a lawful order from a police officer is an offence ♦ General penalty: – Fine not exceeding RM500; or – Imprisonment for a term not exceeding 6 months; – Both	1. The steps that will be necessary to prevent the commission of terrorist acts include - ♦ gathering and sharing intelligence ♦ cutting off funds (dealt with earlier) ♦ cutting off of supplies and weapons (dealt with earlier) ♦ detention, arrest, prosecution of terrorists

	• S19 provides that every police officer shall be deemed to be always on duty when required to act as such and shall perform the duties and exercise the powers granted to him under the Act or any other law at any place in Malaysia where he may be doing duty • S20(1) provides that every police officer shall perform such duties and exercise such powers as are by law imposed or conferred upon a police officer • S20(3) provides that in carrying out his duties under S3(3), a police officer may take such lawful measures and do such lawful acts as may be necessary in connection therewith, including, *inter alia* – ♦ apprehending all persons whom he is by law authorized to apprehend ♦ processing security intelligence ♦ conducting prosecutions • The Act provides specific powers in the carrying out of specific duties such as traffic control, protection of property, inspection of licences, vehicles, *etc.*, detention and search of aircraft, erection of road barriers, imposition of curfews.	♦ deterrent penalties upon conviction. 2. Internal security threats are the responsibility of the Royal Malaysia Police (RMP) while external security threats are the responsibility of the Armed Forces. 3. Both the RMP and the Armed Forces maintain their respective surveillance and intelligence gathering mechanisms, but thus far usually operate independently of each other unless circumstances require otherwise. 4. Exchange of information is done separately, i.e. within the police fraternity (INTERPOL, EUROPOL and ASEANAPOL) and within the military fraternity (NATO, FPDA) based on their respective bilateral or multilateral arrangements.
	(b) **Criminal Procedure Code** • S13 imposes a duty on the public to give the police information of the commission of or intention of any other person to commit any offence punishable under, *inter alia*,	1. The Code does not directly address terrorist acts. But it does enable preventive action to be undertaken against such activities.

	S125, 126 and 130 of the Penal Code (relevant sections discussed above) • S52(1) empowers the Judge of the High Court or a Sessions Court Judge to require the postal or telegraph authorities to deliver to him any postal article, telegram or other document which in his opinion is wanted for the purpose of any investigation, inquiry, trial or other proceeding under the Code • S52(2) empowers the Public Prosecutor to – ◆ require the postal or telegraph authorities to cause search to be made for any postal article, telegram or other document which in his opinion is wanted for the purpose of any investigation, inquiry, trial or other proceeding under the Code; and ◆ detain that document pending the orders of a High Court Judge or a Sessions Court Judge • S103 empowers a police officer to interpose for the purpose of preventing the commission of a seizable offence and imposes a duty on such officer to act to the best of his ability using all lawful means to prevent the commission of any seizable offence ◆ S2 defines seizable offence to mean an offence for which a police officer may ordinarily arrest without warrant according to the First Schedule • S104 imposes a duty on a police officer receiving information of a

		design to commit any seizable offence to communicate that information to his superior officer and to any other officer on duty whose duty it is to prevent or take cognizance of the commission of any such offence • S105 empowers a police officer who knows of a design to commit any seizable offence to arrest without orders from a Magistrate and without a warrant the person so designing if it appears to the officer that the commission of the offence cannot otherwise be prevented • S106 empowers a police officer on his own authority to interpose to prevent any injury attempted to be committed in his view to any public property, movable or immovable, or the removal or injury of any public land-mark or buoy or other mark used for navigation • S107 imposes a duty on a police officer in charge of a police station to reduce to writing every information relating to the commission of an offence if given to him orally (First Information Report)		
		(c) **Armed Forces Act 1972** • S3(2) enables the armed forces to be put on stand-by status when necessary. It empowers the Minister to declare any period not exceeding 3 months to be a period of "active service" for a force even though the force is not actually engaged in operations against an enemy if it is foreseeable that the necessity of such operations is imminent. This period may be	1. The Act does address terrorist acts even though it is intended to regulate the Armed Forces. It also enables preventive action to be undertaken against such activities.	

extended for further periods not exceeding 3 months each if necessary.

- S38(1) makes it an offence for armed forces personnel to aid the enemy through, *inter alia* –
  - furnishing the enemy with arms or ammunition or with supplies of any description or with any other thing likely to assist him
  - harbouring or protecting an enemy not being a prisoner of war
  - causing the capture or destruction by the enemy of –
    - any of the Yang di-Pertuan Agong's ships or aircraft
    - any of the ships or aircraft of any force co-operating with the Yang di-Pertuan Agong's armed force.

- S41 makes it an offence for armed forces personnel to, with intent to assist the enemy, communicate with or give intelligence to the enemy

- The term "intelligence" is defined in s41(3) to mean –
  - information which is or purports to be information as to any matter such that information about it would or might be directly or indirectly useful to the enemy
  - in particular but without prejudice to the generality of the foregoing provisions,

S38(1) – conviction is by court-martial

- Liable to suffer death or any other punishment provided by the Act

S38(2) – conviction is by court-martial

- if he knowingly and without lawful excuse does any of the acts in S38(1) but it is not proved that he acted with intent to assist the enemy
  - Liable to imprisonment or any less punishment provided by the Act

S38(3) – conviction is by court-martial

- if he negligently causes the capture or destruction by the enemy of -
  - any of the Yang di-Pertuan Agong's ships or aircraft
  - any of the ships or aircraft of any force co-operating with the Yang di-Pertuan Agong's armed force
  - Liable to imprisonment or any less punishment provided by the Act

S41(1) – conviction is by court-martial

- Liable to suffer death or any other punishment provided by the Act
- If done without authority, liable to imprisonment or any less punishment provided by the Act

		information as to any matter falling within the following paragraphs, being a matter such that information as to it would or might be useful as aforesaid, that is to say: ♦ the number, description, armament, equipment, disposition, movement or condition of any of His Majesty's armed forces or of any forces co-operating therewith or any of His Majesty's ships or aircraft or of the ships or aircraft of any such co-operating force ♦ any operations or projected operations of any such forces, ships or aircraft as aforesaid ♦ any code, cipher, call sign, password or countersign ♦ any measures for the defence or fortification of any place on behalf of His Majesty ♦ the number, description or location of any prisoners of war ♦ munitions of war			
		(d) **Internal Security Act 1960** • There is a definition of "terrorist" in S2 of the ISA but it does not appear to cover international terrorism. • S8 and S73 empower the preventive detention of persons suspected of acting in any manner prejudicial to – ♦ Malaysia's national security ♦ maintenance of essential services	• S44A – General penalty for offences under Part II (S3-46) ♦ Fine not exceeding RM1000; or ♦ Imprisonment for a term not exceeding 1 year; or ♦ Both	1. The ISA is utilized to detain persons with a view to preventing them from acting in any manner prejudicial to Malaysia's national security, maintenance of essential services or the economic life of Malaysia or as a preventive measure. 2. Section 62 only applies if the offence is committed in a declared security area.	

- the economic life of Malaysia.

- S38 provides that any officer or person authorized to exercise the powers of entry or investigation under S36 may seize any document or other thing in respect of which he reasonably believes an offence to have been committed under Chapter IV of the Act (section 32-41) or any order made thereunder or which he reasonably believes to be or to contain evidence relating to such an offence:

  Provided that nothing in this section shall be deemed to affect the powers of a police officer under the Criminal Procedure Code.

- S62 provides that no person, knowing or having reasonable cause to believe that another person has committed an offence against Part III of the Act shall, whether within or outside a security area, give that other person any assistance with intent thereby to prevent, hinder or interfere with the apprehension, trial or punishment of that person for the said offence.

- S76 provides for the inspection of bankers' books for the purposes of the Act by empowering the Minister, if he is satisfied that any evidence of the commission of an offence against this Act or against any written law for the time being specified in the Second Schedule is likely to be found in any banker's book, by order authorize any police officer to inspect any such book, and a police officer so authorized may, at all reasonable times, enter the

- S63A – General penalty for offences under Part III (S47-71)
  - Fine not exceeding RM5000; or
  - Imprisonment for term not exceeding 3 years; or
  - Both

	bank specified in the order and inspect the banker's books kept therein, and may take copies of any entry in any such book.			
	• S59 makes it an offence for any person to collect or receive any supplies (including money) which raises a reasonable presumption that – ♦ he intends or is about to act or has recently acted in a manner prejudicial to public security or public order ♦ he intends the same for the use of any terrorist	• Death in cases where the supplies in respect of which he is convicted consist of firearms, ammunition or explosives • Imprisonment for life in other cases		
	(e) **Penal Code**			
	• S120A provides for criminal conspiracy, as an offence. Acts of persons who cooperate with a terrorist who may be elsewhere by way of an agreement to commit an unlawful act is said to be conspiring with the terrorist.	• S120B(1) – if the penalty for the offence that is to be committed is death or imprisonment for 2 years or upwards - ♦ the same penalty as if he had abetted the offence • S120B(2) – if the penalty for the offence that is to be committed is other than death or imprisonment for 2 years or upwards- ♦ imprisonment for a term not exceeding 6 months, or with fine, or with both	1. The Code does not directly address the prevention of terrorist acts. But it does enable action to be taken against such activities.	
	• S125 criminalizes the waging of war, or attempts or abetments thereof, against the Government of any power in alliance or at peace with the Yang di-Pertuan Agong, whether in conjunction with the enemies of the Yang di-Pertuan Agong or otherwise.	• Imprisonment for life, to which fine may be added; or • With imprisonment for a term which may extend to twenty years, to which fine may be added; or • With fine	2. This section applies to any person who wages war or attempts to wage war against the government of any power in alliance or at peace with the Yang di-Pertuan Agong. 3. The offences provided for would cover offences committed domestically and in the case of offences under S120A, 125 and 126, may extend to offences committed on a foreign territory.	

		• S125A makes it an offence to "harbour" or attempt to "harbour" the enemies of the Yang di-Pertuan Agong– ♦ in Malaysia or elsewhere; or ♦ in the territories of any power at war with, or otherwise in actual hostility against, the Yang di-Pertuan Agong.	• Imprisonment for life, to which fine may be added; or • With imprisonment for a term which may extend to twenty years, to which fine may be added; or • With fine	4. This section applies to any person who harbours the enemies of the Yang di-Pertuan Agong. 5. The term "harbour" is defined in S130A to include, *inter alia*, the supplying to a person with money (providing financial support). 6. The offences provided for would cover offences committed domestically and in the case of offences under S120A, 125 and 126, may extend to offences committed on a foreign territory.	
		• S126 criminalizes the commission of depredation (i.e. plundering, looting or ravaging) or any preparation to commit depredation, on the territories of any power in alliance or at peace with the Yang di-Pertuan Agong.	• Imprisonment for a term which may extend to seven years; and • Shall also be liable to a fine; and • Shall also be liable to forfeiture of – ♦ any property used, or intended to be used, in committing such depredation ♦ any property acquired by such depredation	7. This section applies to any person who commits depredation on the territories of any power in alliance or at peace with the Yang di-Pertuan Agong. 8. The offences provided for would cover offences committed domestically and in the case of offences under s120A, 125 and 126, may extend to offences committed on a foreign territory.	
		• S363 makes the kidnapping of any person from Malaysia or from lawful guardianship an offence	• S363 ♦ Imprisonment for a term which may extend to 7 years ♦ Shall also be liable to fine		
		• S364 makes the kidnapping or abduction of any person in order to murder such person or to be so disposed as to be put in danger of being murdered an offence	• S364 ♦ Shall be punished with death or imprisonment for a term which may extend to 20 years ♦ Shall if not sentenced to death, also be liable to whipping		
		(f) **Communications and Multimedia Act 1998**			
		• S252 empowers the Public Prosecutor, on an application by an authorized officer under the Act or a police officer of or above the rank of Superintendent, to authorize		1. The Act does not directly address terrorist acts. But it does, inter alia, provide for surveillance and interception of communications for the purposes of the Act and in the interest of maintaining public order.	

the said officer to intercept or to listen to any communication transmitted or received by any communications if he considers that such communications are likely to contain information relevant for the purpose of any investigation into an offence under the Act. The information so obtained whether before or after a person is charged with an offence under the Act is admissible at his trial in evidence.

- S265 empowers the Minister to determine a licensee or class of licensees to implement the capability to allow authorized interception of communications (e.g. Carnivore)

- S266 empowers the Yang di-Pertuan Agong or the Minister authorized by the Yang di-Pertuan Agong in that behalf on the occurrence of any public emergency or in the interest of public safety to, *inter alia*, order that –

  - any communication or class of communications to or from any licensee, person or the general public relating to any specified subject is not to be communicated

  - any communication or class of communications to or from any licensee, person or the general public relating to any specified subject is to be intercepted or detained or that such communications be disclosed to an authorized officer mentioned in the order

	• S269 enables the interworking of the Communication and Multimedia Commission with any other authority in Malaysia or in a foreign jurisdiction, or any international organization upon the direction of the Minister.	
	(g) **Dangerous Drugs (Forfeiture of Property) Act 1988**	1. The Act does not directly address terrorist acts. But it does, inter alia, provide for surveillance and interception of communications for the purposes of the Act.
	• S20 empowers the Public Prosecutor to authorize the interception of postal articles and telecommunications that may contain information that is relevant for the purpose of any investigation into an offence under the Act.	2. This facility may be extended to mutual assistance where appropriate.
	• S20 also provides that this power may even be invoked where the information is required for the purpose of any investigation into an offence under any corresponding foreign law in line with the provisions for mutual assistance contained in the Act.	
	• S51 empowers the Inspector General of Police to authorize a senior police officer to exercise the powers of interception of communications under S20 for the purpose of rendering assistance to a foreign authority in relation to any drug-related matter if the Inspector General of Police is satisfied that it is necessary, expedient or desirable to do so	
	• S53 provides for the transmission of information, statements, evidence, movable property, etc. relating to a drug-related matter to a	

	foreign government or foreign authority obtained or seized in Malaysia on the request of such foreign government or foreign authority			
	(h) **Anti-Corruption Act 1997** • S39 empowers the Public Prosecutor to authorize – ♦ the interception, detention and opening of postal articles ♦ the interception of any message transmitted or received by any telecommunication ♦ the interception or listening to any conversation by any telecommunication, that may contain information that is relevant for the purpose of any investigation into an offence under the Act.	-	1. The Act does not directly address terrorist acts. 2. However, corruption of public officials may be a means of carrying out a terrorist act. 3. Another element that is not addressed under the Act is the criminalization of the bribery of foreign public officials. There is a proposal in the UK Parliament to make it an offence in the UK for a UK citizen to bribe a public official in foreign country.	
	(i) **Anti-Money Laundering Act 2001** • S7 provides for the appointment of a competent authority to, *inter alia* – ♦ receive and analyse information and reports from persons and reporting institutions under the Act ♦ send any information received to an enforcement agency if there is reason to believe or suspect that a transaction involves proceeds of an unlawful activity or a serious offence is being, has been or is about to be committed ♦ serious offence means one of the predicate offences	• S4(2) - ♦ Fine not exceeding RM5 million; or ♦ Imprisonment for a term not exceeding 5 years; or ♦ Both	1. The Act is not in operation yet. 2. The Act does not directly address the financing of terrorist acts. 3. An important aspect of combating terrorism is the surveillance and tracing of the funds of suspected terrorists. 4. This is possible under the Act which establishes a Financial Intelligence Unit and empowers it to collect, analyze and disseminate information on suspicious, large and unusual transactions. The information is then transmitted to the relevant enforcement agency for purposes of investigating an offence of money laundering. 5. The predicate offences listed in the Second Schedule do not at	

		specified in the Second Schedule – Among these offences are corruption, drug trafficking, offences involving firearms and offences relating to the securities industry. • S10 empowers the competent authority (Central Bank of Malaysia) to communicate any thing disclosed to it by a reporting institution to a corresponding authority of a foreign State if– ♦ there exists a reciprocal arrangement between Malaysia and the foreign State the corresponding authority undertakes to protect the confidentiality of any thing communicated and to control the use made of it, including not to use it as evidence in any proceedings.		present include the offences associated with terrorist acts under the Penal Code discussed above.	
		(j) Kidnapping Act 1961 • S11 empowers the Public Prosecutor to authorize a police officer to intercept any postal article or telecommunication for the purposes of investigating an offence under the Act • S9 also enables information to be obtained from any person regarding any property related to an offence under the Act		**1. The Act does not directly address terrorist acts. But it does, inter alia, provide for surveillance and interception of communications for the purposes of the Act.**	
		(k) Postal Services Act 1991 • S17(1) makes it is an offence for any person to send by post any article or thing which is likely to injure any person or	• S26- Imprisonment for a term not exceeding one year or fine or both	1. The Act does not directly address terrorist acts. But it does, inter alia, provide for surveillance and interception of communications for the purposes of the Act.	

	any postal article in the course of transmission by post. • S17(2) makes it an offence for any person to send by post any noxious or deleterious substance or any living creature which is either noxious or likely to injure any person in the course of transmission by post except as provided by the rules made under the Act. *Note: By virtue of S22, this section applies to any article or thing sent from without Malaysia in like manner as it applies to any article or thing sent from within Malaysia. • S18(e) makes it an offence for any person to send by post, *inter alia*, any article which the Minister by rule prohibits.	• S26- Imprisonment for a term not exceeding one year or fine or both • S26- Imprisonment for a term not exceeding one year or fine or both		
	(l) **Aviation Offences Act 1984** • S7(1) makes it an offence for a person on board an aircraft in flight to unlawfully, by use of force or by threats of any kind, to seize the aircraft or exercise control of it, whatever his nationality or citizenship, whatever the State of registration of the aircraft and whether the aircraft is in Malaysia or elsewhere • S7(2) provides that s7(1) does not apply if the aircraft is used in military, customs or police service unless – ♦ the person seizing or exercising control of the aircraft is a citizen of Malaysia; ♦ his act is committed in or over Malaysia; or the aircraft is used in the	S14- general penalty • imprisonment for life	1. The Act criminalizes hijacking and sabotage of aircraft but it does not directly address other preventive measures including the provision of early warning to other States by exchange of information on terrorist acts. 2. The exchange of information may be undertaken administratively through established multilateral or bilateral arrangements.	

military, customs or police service of Malaysia

- S8 makes it an offence to do any act of violence against the passengers or crew of any aircraft in flight in connection with the hijacking and provides that Malaysia is seized of the offence whatever the act of violence, whatever the State of registration of the aircraft and whatever the nationality or citizenship of the person committing the act

- S9(1) makes it an offence for any person to unlawfully and intentionally –
  - destroy an aircraft in service or so damage such aircraft as to render it incapable of flight or as to likely endanger its safety in flight
  - commit on board an aircraft in flight any act of violence that is likely to endanger the safety of the aircraft
- S9(2) makes it an offence for any person to unlawfully and intentionally place or cause to be placed on an aircraft in service any device or substance that is likely to destroy the aircraft or is likely so to damage it as to render it incapable of flight or as to be likely to endanger its safety in flight
- S9(3) provides that Malaysia will be seized of the offences under s9 whether the acts are committed in Malaysia or elsewhere, whatever the State of registration of the aircraft or whatever the nationality or citizenship of the person committing the act

	• S9(4) provides that no offence under s9(1) or (2) is committed if the act is committed in relation to an aircraft used in military, customs or police service unless - ♦ the act is committed in or over Malaysia; or ♦ where the act is committed outside Malaysia, the person committing the act is a citizen of Malaysia			
	(m) **Computer Crimes Act 1997** • S3 makes it an offence to secure unauthorized access to any computer • S4 provides that if the unauthorized access is made with intent to commit fraud or dishonesty, the punishment is enhanced. • S5 makes it an offence to cause unauthorized modifications to the contents of any computer.	• S3 ♦ Fine not exceeding RM50,000 or imprisonment for a term not exceeding 5 years or to both • S4 ♦ Fine not exceeding RM150,000 or imprisonment for a term not exceeding 10 years or to both • S5 ♦ Fine not exceeding RM100,000 or imprisonment for a term not exceeding 7 years or to both ♦ If the act is done with the intention of causing injury as defined in the Penal Code – ▪ Fine not exceeding RM150,000 or imprisonment for a term not exceeding 10 years or to both	1. The Act does not directly address terrorist acts but it does enable action to be taken against such activities.	
	(n) **Mutual Assistance in Criminal Matters Bill 2001** • The Bill enables assistance to be given for investigative and prosecutorial purposes. • The scope of assistance includes-		1. The proposed Act is currently being drafted. 2. The proposed Act does not directly address terrorist acts. But it does enable international cooperation to be undertaken in investigations and prosecutions of such activities.	

		• the obtaining of information, evidence and thing • search and seizure • retraining dealings in property liable to forfeiture • the enforcement of forfeiture orders • the identification or tracing of proceeds, property and instrumentalities derived from or used in the commission of a serious offence and a foreign serious offence.		3. Assistance may be rendered if the prescribed conditions under the proposed Act are fulfilled, including dual criminality and reciprocity. 4. In the event there is a difference of opinion on whether a particular act constitutes an offence by virtue of it being a terrorist act or the act of a terrorist, the requirement for dual criminality may prove to be a barrier to a request for mutual assistance. Thus there must be a consensus on the definition of "terrorism". 5. Mutual assistance generally covers assistance during investigation and prosecution but does not allow a "fishing expedition" during the investigation. 6. Pending the enactment and commencement of the proposed Act, a request for assistance may be made by way of a Letter of Request or Letters Rogatory under Order 66 of the Rules of the High Court 1980. However, the scope of assistance that may be provided there under is limited by the requirement that there must be a pending matter in the court. Hence this would not assist a requesting State if it were at the investigative stage only.

1. The application and enforcement of all the laws cited in the Table are subject to the rule of law and the principles of natural justice, with the Legislative, Executive and Judicial branches of Government acting as checks and balances. Further safeguards for due process are also enshrined in the Federal Constitution and incorporated into the relevant laws.
2. The application and enforcement of all the laws cited in the Table also depend in each and every case on the facts and circumstances and the evidence available.
3. Thus although not the ideal, Malaysia satisfies the requirements of paragraph 2(b) of this Resolution.

Paragraph 2(c): States should – • deny safe haven to those who finance, plan, support, or commit terrorist acts • not provide safe havens to those who finance, plan, support, or commit terrorist acts	**(a) Immigration Act 1959/63** • S5 provides for the means of determining legal points of entry and departure from Malaysia and the establishment of immigration control posts • S6 prescribes the travel documents that have to be produced to gain entry into Malaysia unless he has been granted an exemption ♦ Entry Permit ♦ Valid Pass • S8 empowers the Director General of Immigration to designate prohibited classes of immigrants • S9 empowers the Director General of Immigration to prohibit entry or cancel any Pass or Permit • S9A empowers the Director General of Immigration to limit the number of persons entering Malaysia in the interests of public security or by reason of any economic, industrial, social, educational or other conditions in Malaysia • S28 provides for the interrogation of travelers by an immigration officer or a senior police officer – ♦ tending to establish his– 1. identity 2. nationality 3. occupation ♦ bearing on any of the restrictions contained in the Act ♦ bearing on any absolute or conditional liability on	S57 – general penalty ♦ Fine not exceeding RM10,000 ♦ Imprisonment for a term not exceeding 5 years	1. The Act does not directly address terrorist acts or terrorists. 2. Persons who are within the prohibited class of immigrants under the Immigration Act 1959/63 may be denied entry at Malaysia's borders/entry points by the Director General. 3. This class includes any person who believes in or advocates the overthrow by force or violence of any Government in Malaysia or of any established government or of constituted law or authority or who disbelieves in or is opposed to established government, or who advocates the assassination of public officials, or who advocates or teaches the unlawful destruction of property. 4. In the case of such persons who have entered the country legally, the Government may revoke their visas, where such a requirement is in place. The position of nationals from countries with which Malaysia has made arrangements to remove visa requirements may be more difficult. In such cases, deportation may depend on the commission of an offence under domestic law. 5. In the case of such persons who have entered the country illegally, the Government may deport them. However, the Government would first have to establish their country of origin before they may be repatriated and this will also require the co-operation of the country of origin. 6. Such persons may also be extradited upon request subject to satisfaction of the conditions imposed under the Extradition Act 1992 and the relevant extradition treaty.	S/2002/35

S		his part to any military, naval or air force service under any state or country whatsoever A general power of interrogation is also provided under S50 for persons subject to removal from Malaysia. • S31, 32 and 33 empower the removal of prohibited immigrants, illegal immigrants and persons unlawfully remaining in Malaysia respectively • S46 provides for the repatriation of persons			
		(b) **Passports Act 1966** • S2 requires the production of passports and valid visas (for non citizens) upon entry into or departure from Malaysia • S12(1) makes it an offence for a person to *inter alia* – • forge, alter or tamper with his passport or internal travel document, or any visa or endorsement therson, or without lawful authority to use or attempt to use, or have in his possession, any passport or internal travel document that has been so forged, altered or tampered with impersonate or falsely represent himself to be or not to be a person to whom a passport or internal travel document has been duly issued • with intent to obtain for himself a passport, internal travel document, or an endorsement or visa on his passport,	S12(2) – general penalty ♦ Fine not exceeding RM10,000 ♦ Imprisonment for a term not exceeding 5 years ♦ Both S12(1) – ♦ Fine not exceeding RM10,000 ♦ Imprisonment for a term not exceeding 5 years ♦ Both	1. The Act does not directly address terrorist acts or terrorists. But it does enable action to be taken against related activities i.e. using, acquiring or providing false travel documents.	

	knowingly make any false statement or produce any document that is to his knowledge false in any particular • without lawful authority, have in his possession any passport or internal travel document that has been obtained as a result of making any material statement that was false or misleading, or as a result of the production of false evidence • willfully assist any person to enter Malaysia contrary to the Act • willfully assist any person to contravene the Act			
	• S12A makes it an offence for any person to, with intent to obtain for any other person a passport, internal travel document or an endorsement or visa on a passport, knowingly make any false statement or produce any document that to his knowledge is false in any particular	• Fine not less than RM10,000 but not more than RM50,000; and • Imprisonment for a term of not less than 1 year but not more than 5 years		
	• S12B makes it an offence for a person to make any false document intending it to be used by himself or by any other person or that is used by himself or by any other person as a passport for the purposes of the Act	• Fine not less than RM15,000 but not more than RM100,000; and • Imprisonment for a term of not less than 2 years but not more than 10 years; and • Whipping of not more than 6 strokes of the rotan		
	(c) **Extradition Act 1992** • Extradition may be made pursuant to an existing bilateral arrangement or under the special direction of the Minister	-	1. The Act does not directly address terrorist acts. But it does enable international cooperation to be undertaken in investigations and prosecutions of such activities. 2. Extradition may be rendered if the prescribed conditions under the	

	• The procedure for an extradition request will be governed by that treaty and the Act. • The dual criminality principle has to be satisfied. • Evidence will also be required for the purpose of determining the culpability of the fugitive criminal. However the treaty may provide for the dispensation of the normal requirement for a *prima facie* case in an extradition inquiry, in which case, the only requirement is for sufficient evidence to justify a committal for extradition under the Extradition Act 1992.		Act are fulfilled, including dual criminality and reciprocity. 3. In the event there is a difference of opinion on whether a particular act constitutes an offence by virtue of it being a terrorist act or the act of a terrorist, the requirement for dual criminality may prove to be a barrier to a request for extradition. Thus there must be a consensus on the definition of "terrorism". 4. Another contentious issue may be the imposition and carrying out of the death sentence and other sentences deemed to be inhumane, degrading or tantamount to torture. **5. It is also noted that some States constitutionally prohibit the extradition of its citizens.**
1. The application and enforcement of all the laws cited in the Table are subject to the rule of law and the principles of natural justice, with the Legislative, Executive and Judicial branches of Government acting as checks and balances. Further safeguards for due process are also enshrined in the Federal Constitution and incorporated into the relevant laws. **2. The application and enforcement of all the laws cited in the Table also depend in each and every case on the facts and circumstances and the evidence available.** **3. Thus although not the ideal, Malaysia satisfies the requirements of paragraph 2(c) of this Resolution.**			
Paragraph 2(d) States should prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens	**(a) Penal Code** • S125 criminalizes the waging of war, or attempts or abetments thereof, against the Government of any power in alliance or at peace with the Yang di-Pertuan Agong, whether in conjunction with the enemies of the Yang di-Pertuan Agong or otherwise.	• Imprisonment for life, to which fine may be added; or • With imprisonment for a term which may extend to twenty years, to which fine may be added; or • With fine. • **Abetment** • S109 provides that whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by the Code for the punishment of such abetment, be punished with the punishment provided for the offence	1. The Code does not directly prohibit using Malaysian territory to abet or facilitate terrorist acts. 2. S125 applies to any person who wages war or attempts to wage war against the government of any power in alliance or at peace with the Yang di-Pertuan Agong. **3. The offences provided for would cover offences committed domestically and in the case of offences under S120A, 125 and 126, may extend to offences committed on a foreign territory.**

- S120A provides for criminal conspiracy, as an offence. Acts of persons who cooperate with a terrorist who may be elsewhere by way of an agreement to commit an unlawful act is said to be conspiring with the terrorist.

S120B(1) – if the penalty for the offence that is to be committed is death or imprisonment for 2 years or upwards -

- the same penalty as if he had abetted the offence.

S120B(2) – if the penalty for the offence that is to be committed is other than death or imprisonment for 2 years or upwards-

- imprisonment for a term not exceeding 6 months, or with fine, or with both

(b) **Internal Security Act 1960**

- There is a definition of "terrorist" in S2 of the ISA but it does not appear to cover international terrorism.
- "terrorist" means any person who –

  (a) by the use of any firearm, explosive or ammunition acts in a manner prejudicial to the public safety or to the maintenance of public order or incites to violence or counsels disobedience to the law or to any lawful order;

  (b) carries or has in his possession or under his control any firearm, ammunition or explosive without lawful authority therefor; or

  (c) demands, collects or receives any supplies for the use of any person who intends or is about to act, or has recently acted, in a manner prejudicial to public safety or the maintenance of public order

S44A – General penalty for offences under Part II (S3-46)

- Fine not exceeding RM1000; or
- Imprisonment for a term not exceeding 1 year; or
- Both

1. The Act does not directly address the prevention of the use of Malaysian territory for the financing, planning, facilitating or committing of terrorist acts against other States or their citizens unlike the Penal Code. But it does enable action to be taken against such activities, in particular if the foreign citizen is on Malaysian territory when the terrorist act is committed against him.
2. The aim of the ISA is to counter the communist insurgency, subversive elements and threats prejudicial to national security and interest.
3. The ISA is utilized to detain persons with a view to preventing them from acting in any manner prejudicial to Malaysia's national security, maintenance of essential services or the economic life of Malaysia or as a preventive measure.
4. The economic life of Malaysia may be prejudiced by economic sanctions imposed against it, whether by the UN, US or by Malaysia's trading partners.
5. S62 only applies if the offence is committed in a declared security area.

		• S8 and S73 empower the preventive detention of persons suspected of acting in any manner prejudicial to – ◦ Malaysia's national security ◦ maintenance of essential services ◦ the economic life of Malaysia. • S38 provides that any officer or person authorized to exercise the powers of entry or investigation under section 36 may seize any document or other thing in respect of which he reasonably believes an offence to have been committed under Chapter IV of the Act (S32-41) or any order made thereunder or which he reasonably believes to be or to contain evidence relating to such an offence: Provided that nothing in this section shall be deemed to affect the powers of a police officer under the Criminal Procedure Code. • S62 provides that no person, knowing or having reasonable cause to believe that another person has committed an offence against Part III of the Act shall, whether within or outside a security area, give that other person any assistance with intent thereby to prevent, hinder or interfere with the apprehension, trial or punishment of that person for the said offence. • S76 provides for the inspection of bankers' books for the purposes of the Act by empowering the Minister, if he is satisfied that any evidence of the commission of an	S63A – General penalty for offences under Part III (S47-71) ◦ Fine not exceeding RM5000; or ◦ Imprisonment for term not exceeding 3 years; or ◦ Both	

	offence against this Act or against any written law for the time being specified in the Second Schedule is likely to be found in any banker's book, by order authorize any police officer to inspect any such book, and a police officer so authorized may, at all reasonable times, enter the bank specified in the order and inspect the banker's books kept therein, and may take copies of any entry in any such book.		

- **The application and enforcement of all the laws cited in the Table are subject to the rule of law and the principles of natural justice, with the Legislative, Executive and Judicial branches of Government acting as checks and balances. Further safeguards for due process are also enshrined in the Federal Constitution and incorporated into the relevant laws.**
- **The application and enforcement of all the laws cited in the Table also depend in each and every case on the facts and circumstances and the evidence available.**
- **Thus although not the ideal, Malaysia satisfies the requirements of paragraph 2(d) of this Resolution.**

Paragraph 2(e): States should ensure that any person who– • participates in the financing, planning, preparation or perpetration of terrorist acts; or • participates in supporting terrorist acts, is brought to justice.	**(a) Penal Code** • S120A, 120B, 125, 125A, 126 and 130 • S4 of the Penal Code provides for Malaysian jurisdiction over these offences even if they are committed overseas **(b) Internal Security Act 1960** **(c) Societies Act 1966**		1. Domestic laws exist to ensure that Malaysia is able to claim jurisdiction over offences committed in its territory and by its citizens and permanent residents anywhere in the world. 2. Further, Malaysia has domestic laws to enable international cooperation to ensure that all perpetrators are brought to justice. 3. In relation to the severity of punishment recommended, although most of the applicable domestic laws cited above do not directly address terrorist acts, the penalties are commensurate with the perceived gravity of the offences, with the death penalty being imposed in certain circumstances.
States should ensure that in addition to any other measures against them, such terrorist acts are established as serious criminal offences	**(d) Emergency (Public Order and Prevention of Crime) Ordinance 1969** • S3 empowers any police officer to arrest without		

8	in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts	warrant and detain for up to 60 days (without a Ministerial detention order under S4) pending inquiries any person who cannot satisfy the police officer as to his identity or as to the purposes for which he is in the place where he is found or being about to act or being likely to act in any manner prejudicial to public order or if the police officer believes such arrest is necessary to suppress violence or to prevent crimes involving violence • S4 empowers the Minister to issue a detention order for up to 2 years against any person to prevent that person from acting in any manner prejudicial to public order or to suppress violence or to prevent crimes involving violence • S4A empowers the Minister to issue a restriction order for up to 2 years to control and supervise the activities, freedom of movement or places of residence or employment of any person • S5, 6 and 7 provides certain safeguards for the detainee, e.g. representation against detention, review of detention by an Advisory Board • S13A provides for the registration of all restricted persons • S13E provides that a restricted person is legally bound to submit to the taking of his photographs and finger impressions			

	(e) Prevention of Crime Act 1959 • The Act applies to Peninsular Malaysia only and is intended to provide for the more effectual prevention of crime and control of criminals, members of secret societies and other undesirable persons • S3 empowers a police officer to arrest without warrant any person he has reason to believe is involved in criminal activities involving dishonesty or violence, or is a member of a secret society or is an undesirable person (violent criminals, drug traffickers, traffickers in women and girls, persons involved in unlawful gaming, persons banished from Malaysia or subject to an order under the Restricted Residence Act 1933). Inquiries are then held under the Act • S12 provides for the registration of such persons which means the person must attend periodically before a police officer at the specified time and place and will be subject to police supervision for up to 5 years • S17 provides that a registered person is liable to imprisonment for a term twice as long as the maximum term for which he would have been liable on conviction for that offence and to whipping if he commits a violent offence after such registration • S18 makes it an offence for a registered person to consort with other registered persons or to frequent or loiter in public places between sunset and sunrise who is unable to satisfactorily account for his presence there	• S18 – ◆ Imprisonment of 1 year; or ◆ Fine of RM1000; or ◆ Both		

	• S19(1) makes it an offence to knowingly conceal or harbour any restricted person	• S19(1) – ♦ Imprisonment not exceeding 6 months; or ♦ Fine not exceeding RM500; or ♦ Both
	• S19(3) imposes a duty to inform the nearest police officer or Magistrate of the presence of any restricted person in any area contrary to the Act	• S19(3) – ♦ Imprisonment not exceeding 3 months; or ♦ Fine not exceeding RM250; or ♦ Both
	• S21 provides that a restricted person is legally bound to submit to the taking of his photographs and finger impressions	
	(f) **Public Order (Preservation) Act 1958** ♦ S3 empowers the Minister to proclaim the existence in any area in Malaysia of a state of danger to public order if in his opinion public order in such area is seriously disturbed or is seriously threatened. This is to enable public order to be maintained or restored in that area ♦ S4-5 provides special powers to the police while a proclamation under s3 is in effect, including the closure of roads, public places, the control of any procession, meeting or assembly of 5 or more persons ♦ S6 empowers a police officer to erect barriers in or across roads or public places to give effect to s4 or if he considers it necessary to preserve law and order or for the	General penalty for contravention of S4, 5, 6, 7, 8 or 13 and where no penalty is specifically provided ♦ Imprisonment for 6 months; or ♦ Fine of RM500; or ♦ Both

prevention or detection of crime

- S7 empowers the Minister, Chief of Police or the Officer in Charge of a Police District to impose a curfew in a proclaimed area
- S8 empowers the police to exclude all or certain classes of persons from a proclaimed area
- S9 empowers the Minister to authorize the telecommunication authority in a proclaimed area to withdraw the use of all or any telecommunication facilities or plant from any person or class of persons or from the public at large
- S10 provides search and seizure power over articles or materials capable of being and which in the opinion of a police officer is likely to be used for offensive purposes
- S11 empowers the police to requisition any movable or immovable property within a proclaimed area
- S12 provides for compensation to be payable for such requisition
- S13 empowers the police to control persons likely to *inter alia* undermine the success of measures taken to maintain or restore public order in a proclaimed area
- S17 empowers a police officer to arrest without warrant any person suspected of the commission of an offence under the Act

S		• S19 empowers the Minister during any period a proclamation is in force in any area of Malaysia, in the public interest, to prohibit the use, possession or custody of arms in any part of Malaysia for such period as may be specified notwithstanding any licence or permit that may have been issued • The Minister may also direct the taking of custody of arms and the cancellation or suspension of licences and permits			
		• S23 makes it an offence for any person in a proclaimed area to unlawfully and maliciously use any offensive weapon or cause by any explosive substance an explosion of a nature likely to endanger life or cause serious injury to a person or property or use any corrosive or inflammable substance in a manner likely to endanger life or cause injury to a person or property	Whether or not injury to person or property occurs • Imprisonment not exceeding 10 years and shall also be liable to whipping		
		• S24 makes it an offence for any person to consort with another person in committing or attempting to commit or doing any act preparatory to the commission of an offence under s23	• Imprisonment not exceeding 7 years and shall also be liable to whipping		
		• S25 makes it an offence for any person in a public place in a proclaimed area to carry or have in his possession any offensive weapon, explosive, corrosive or inflammable substance	• Imprisonment not exceeding 5 years and shall also be liable to whipping		

	• S28 provides for an enhanced penalty for a person who in a proclaimed area commits, attempts to commit or in any place in Malaysia abets the commission in a proclaimed area of the following offences: • Penal Code –S143, 144, 145, 147, 148, 151, 152, 153, 157, 158, 160, 379, 380, 381 and 382S33 of the Minor Offences Ordinance of Sarawak [Cap. 56]	• Imprisonment for term that may extend to twice the longest term provided for the offence, attempt or abetment, as the case may be • Fine as provided for the offence, attempt or abetment, as the case may be • Both		
	• S30 makes it an offence for any person in any place in Malaysia during any period in which a proclamation under s3 is in force in respect of any area in Malaysia to do any act or utter any words or print, publish, sell, offer for sale, reproduce for distribution or import any matter that is likely to undermine the maintenance or restoration of public order in the proclaimed area or in any other part of Malaysia	• Imprisonment for term not exceeding 3 years		
	(g) Kidnapping Act 1961 • S3 - It is an offence to abduct or wrongfully confine another person for ransom • S5 & 6 - It is an offence to abet kidnapping, receive ransom and negotiate for the payment of ransom	• Kidnapping Act 1961 S3 – death or life imprisonment, in which case is also liable to whipping		
	(h) Extradition Act 1992			
	(i) Mutual Assistance in Criminal Matters Bill 2001			

(j) **Extra-territorial Offences Act 1976**

- provides for Malaysian extra-territorial jurisdiction over any act that contravenes the Scheduled Acts (i.e. the Official Secrets Act 1972 and the Sedition Act 1948)
- provides for Malaysian extra-territorial jurisdiction over any offence under any written law certified by the Attorney General to affect the security of the Federation,

if the act or offence is committed on Malaysian territory (includes Malaysian registered aircraft and vessels), or committed by a Malaysian citizen or permanent resident, whether oversees or on board a Malaysian registered aircraft or vessel

- S2(3) provides that the Schedule may be amended to add other Acts by an order of the Yang di-Pertuan Agong
- S127A of the Criminal Procedure Code provides that if the Attorney General certifies that any offence under any written law has been committed by any citizen or any permanent resident in any place without and beyond the limits of Malaysia, such offence may be dealt with as if it had been committed at any place within Malaysia

1. The application and enforcement of all the laws cited in the Table are subject to the rule of law and the principles of natural justice, with the Legislative, Executive and Judicial branches of Government acting as checks and balances. Further safeguards for due process are also enshrined in the Federal Constitution and incorporated into the relevant laws. 2. The application and enforcement of all the laws cited in the Table also depend in each and every case on the facts and circumstances and the evidence available. 3. Thus although not the ideal, Malaysia satisfies the requirements of paragraph 2(e) of this Resolution.			
Paragraph 2(f): States should afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceeding	(a) **Mutual Assistance in Criminal Matters Bill 2001** The assistance afforded under the Act has been discussed in detail above (b) **Letters of Request and Letters Rogatory under Order 66 of the Rules of the High Court 1980** • This assistance only applies if there is a case pending before the court and is not available at the investigation stage (c) **Anti-Money Laundering Act 2001** • S10 provides that notwithstanding any other written law or rule of law, the competent authority may communicate any thing disclosed to it under S14 of the Act (suspicious transactions reports from reporting institutions) to a corresponding authority of a foreign State if – • there exists an arrangement between Malaysia and a foreign State to that effect; and • the competent authority is satisfied that the		1. Malaysia has domestic laws to enable international cooperation in connection with criminal investigations or criminal proceedings to ensure that all perpetrators are brought to justice. 2. However, they do not directly address the financing or support of terrorist acts. 3. On an administrative basis, the Royal Malaysia Police also has cooperative agreements with other law enforcement agencies such as INTERPOL, EUROPOL and ASEANAPOL. The military is also understood to have its own cooperative networks. 1. The Act is not in operation yet. 2. The Act does not directly address the financing of terrorist acts. 3. The predicate offences listed in the Second Schedule do not at present include the offences associated with terrorist acts under the Penal Code discussed above. 4. The Act allows the Central Bank of Malaysia as the competent authority of this Act or a law enforcement agency to cooperate with foreign law enforcement agencies in investigations provided that there is an existing arrangement (e.g. under a Memorandum of

		corresponding authority has given appropriate undertakings as to confidentiality and control of use of such information		Understanding) between Malaysia and that country.
		• S48 empowers the Public Prosecutor, **notwithstanding any other written law or any rule of law**, if he is satisfied that it is necessary for the purpose of any investigation into a money laundering offence, to authorize an investigating officer to – • investigate, inspect and take copies of banking records • inspect the contents of any safe deposit box in a financial institution • request for specific records or articles	• S48(4) makes refusal to comply an offence- • Fine not exceeding RM1 million; or • Imprisonment for a term not exceeding 1 year; or • Both	
		• S49 empowers the Public Prosecutor, **notwithstanding any law or rule of law to the contrary**, if he has reasonable grounds to believe based on an investigation under the Act that a money laundering offence has been committed, to require certain persons to furnish a statement in writing on oath or affirmation setting out all their property in sufficient detail to be identified and located	• S49(3) makes refusal to comply an offence- • Fine not exceeding RM1 million; or • Imprisonment for a term not exceeding 1 year; or • Both • in the case of a continuing offence, to a further fine not exceeding RM1000 for each day during which the offence continues after conviction	

1. **The application and enforcement of all the laws cited in the Table are subject to the rule of law and the principles of natural justice, with the Legislative, Executive and Judicial branches of Government acting as checks and balances. Further safeguards for due process are also enshrined in the Federal Constitution and incorporated into the relevant laws.**
2. **The application and enforcement of all the laws cited in the Table also depend in each and every case on the facts and circumstances and the evidence available.**
3. **Thus although not the ideal, Malaysia satisfies the requirements of paragraph 2(f) of this Resolution.**

Paragraph 2(g):

States should prevent the movement of terrorists or terrorist groups -

- **by effective border controls**
- **by effective controls on issuance of identity papers and travel documents**
- **through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents**

- **Passports Act 1966**
- **Immigration Act 1959/63**
- **National Registration Act 1959**
  - **S5 requires every person aged 12 and above to be registered under the Act and to be issued with an identity card**
  - **S8 provides that the Act does not relieve any person of the obligation under any other written law to be in possession of a passport or other travel document**
- **Restricted Residence Act 1933**
  - **Provides for the making and enforcement of orders regarding residence in and exclusion from certain areas in Malaysia**
  - **S2 empowers the Minister to issue an order for the arrest and detention of a person if there are reasonable grounds to believe that a person should be required to reside in any particular area or should be prohibited from entering into any particular area**
  - **S3 empowers the Minister to issue an order directing that a person be placed under police supervision for any period not exceeding 5 years. This order will involve restricting the freedom of movement of such person. Safeguards are provided for the person concerned**

1. **Malaysia has domestic laws to control the movement of persons across its borders and within its territory.**
2. **However, they do not directly address the movements of terrorists or terrorists groups.**
3. **On an administrative basis, the Royal Malaysia Police also has cooperative agreements with other law enforcement agencies such as INTERPOL, EUROPOL and ASEANAPOL for, *inter alia*, border control and the movement of wanted persons. The military is also understood to have its own cooperative networks.**
4. **The issue will be more of implementation and enforcement of those laws.**

	• S6 makes it an offence for any person to breach the restricted residence order. • S7(i) makes it an offence to knowingly conceal or harbour any restricted person who unlawfully enters any area • S7(ii) imposes a duty to inform the nearest police officer or Magistrate of the presence of any restricted person in any area contrary to the Act	• S6 - ◆ Imprisonment not exceeding 3 years • S7(i) - ◆ Fine of RM500 ◆ Imprisonment for 6 months • S7(ii) - ◆ Fine of RM250 ◆ Imprisonment for 3 months	

1. The application and enforcement of all the laws cited in the Table are subject to the rule of law and the principles of natural justice, with the Legislative, Executive and Judicial branches of Government acting as checks and balances. Further safeguards for due process are also enshrined in the Federal Constitution and incorporated into the relevant laws.

2. The application and enforcement of all the laws cited in the Table also depend in each and every case on the facts and circumstances and the evidence available.

3. Thus although not the ideal, Malaysia satisfies the requirements of paragraph 2(g) of this Resolution.

Paragraph 3(a): States are called upon to find ways of intensifying and accelerating the exchange of operational information, especially regarding – • actions or movements of terrorist persons or networks • forged or falsified travel documents • traffic in arms, explosives or sensitive materials • use of communication technologies by terrorist groups • threats posed by the possession of weapons of mass	• Internal Security Act 1960 • Restricted Residence Act 1933 • Public Order (Preservation) Act 1958 • Societies Act 1966 • Immigration Act 1959/63 • Passports Act 1966 • Arms Act 1960 • Firearms (Increased Penalties) Act 1971 • Corrosive and Explosive Substances and Offensive Weapons Act 1958 • Explosives Act 1957 • Aviation Offences Act 1984 • Official Secrets Act 1972 • Computer Crimes Act 1997	The relevant provisions are discussed above.	1. The implementation of this paragraph involves administrative measures. 2. Malaysia generally utilizes both the legal and administrative channels to facilitate the exchange of information.

destruction by terrorist groups	• Communications and Multimedia Act 1998 • Penal Code • Postal Services Act 1991 • Customs Act 1967 ♦ Provides for control of import and export of goods including arms and other dangerous materials ♦ S135(1) makes it is an offence to import or export any prohibited goods (prescribed under section 31 of the Customs Act 1967)	For the first offence - ♦ Fine of not less than ten times the value of the goods or RM50,000, whichever is the lesser amount and of not more than twenty times the value of the goods or RM100,000 whichever is the greater amount, or to imprisonment for a term not exceeding 3 years or to both For a second or subsequent offence – ♦ Fine of not less than ten times the value of the goods or RM100,000, whichever is the lesser amount and of not more than forty times the value of the goods or RM500,000 whichever is the greater amount, or to imprisonment for a term not exceeding 5 years or to both If the value of the goods cannot be ascertained – ♦ Fine not exceeding RM500,000 or to imprisonment for a term not exceeding 5 years or to both	
	• Prevention and Control of Infectious Diseases Act 1988 ♦ S9 makes it is an offence to knowingly import or export any pathogenic organism or substance (includes any living germ, microbe, bacteria or virus capable of causing infectious disease) or part thereof except as permitted by the regulations made under the Act.	• S24 – ♦ in respect of a first offence, imprisonment not exceeding 2 years or to fine or to both ♦ in respect of a second or subsequent offence, imprisonment not exceeding 5 years or to fine or to both ♦ in respect of a continuing offence, to a further fine not exceeding RM200 for every day during which such offence continues.	

8		• Poisons Act 1952 ♦ S6 provides that the importation of poisons is subject to licence ♦ S9 regulates the packaging, labeling and storing of poisons ♦ S10 regulates the transportation of poisons ♦ S11 regulates the manufacture of poisons ♦ S13-25 regulate the possession for sale and sale of poisons ♦ S30 regulates the import, export, manufacture and sale of psychotropic substances	• S32 – general penalty ♦ Fine not exceeding RM3000; or ♦ Imprisonment not exceeding 1 year; or ♦ Both • If the act amounts to wilful default or culpable negligence which endangered or was likely to endanger human life – ♦ Fine not exceeding RM5000; or ♦ Imprisonment not exceeding 2 years; or ♦ Both • S30(5) – ♦ Fine not exceeding RM10,000; or ♦ Imprisonment not exceeding 4 years; or ♦ Both	3. The Act regulates all activities in relation to dealings or transactions in poisons and psychotropic substances.	S/RES/35
		• Atomic Energy Licensing Act 1984 ♦ S12 provides for the licensing of nuclear installations and its activities. Thus no person shall, unless he holds a licence under the Act - – **site, construct or operate a nuclear installation** • deal in, possess or dispose of any radioactive material, nuclear material, prescribed substance or irradiating apparatus • S20 and 21 provide for the recording of transactions of radioactive material, nuclear material, prescribed substances or irradiating apparatus, in particular the authenticated name and address of the person to whom	• S40 – general penalty ♦ Imprisonment not exceeding 10 years ♦ Fine not exceeding RM100,000 ♦ Both	4. The licensing and sale of radioactive and nuclear materials are regulated by law and should serve as an effective measure to prevent terrorist acts using these materials.	

	the radioactive material, nuclear material, prescribed substance or irradiating apparatus is sold and by whom it is returned to the licensee • S26 and 27 regulate the disposal of radioactive wastes • S30 prohibits any person from transporting radioactive wastes without the prior authorization of the appropriate authority		
Paragraph 3(b): States are called upon to exchange information in accordance with international and domestic law and co-operate on administrative and judicial matters to prevent the commission of terrorist acts	• Internal Security Act 1960 • Restricted Residence Act 1933 • Public Order (Preservation) Act 1958 • Societies Act 1966 • Immigration Act 1959/63 • Passports Act 1966 • Arms Act 1960 • Firearms (Increased Penalties) Act 1971 • Corrosive and Explosive Substances and Offensive Weapons Act 1958 • Explosives Act 1957 • Aviation Offences Act 1984 • Official Secrets Act 1972 • Computer Crimes Act 1997 • Communications and Multimedia Act 1998 • Penal Code • Prevention and Control of Infectious Diseases Act 1988 • Postal Services Act 1991 • Poisons Act 1952	The relevant provisions are discussed above.	1. The implementation of this paragraph involves administrative measures. 2. Malaysia generally utilizes both the legal and administrative channels to facilitate the exchange of information. 3. Preventing crimes is also high on the agenda of the relevant authorities including the police.

	• Atomic Energy Licensing Act 1984 • Customs Act 1967 • Extradition Act 1992 • Mutual Assistance in Criminal Matters Bill 2001		
Paragraph 3(c): **States are called upon to cooperate, particularly through bilateral and multilateral arrangements and agreements to prevent and suppress terrorist attacks and take action against perpetrators of such acts**	• Extradition Act 1992 • Mutual Assistance in Criminal Matters Bill 2001 • Bilateral arrangements/ agreements 1984 Agreement on Security Arrangements at the Border Areas between the Government of Malaysia and the Government of the Republic of Indonesia (MALINDO) • Agreement being reviewed based on new direction and orientation of MALINDO • Multilateral arrangements/ agreements Agreement on Exchange of Information and Establishment of Communication Procedures between Malaysia, Indonesia and the Philippines (being proposed)		1. The implementation of this paragraph involves administrative measures. 2. Malaysia generally utilizes both the legal and administrative channels to facilitate the exchange of information. 3. Preventing crimes is also high on the agenda of the relevant authorities including the police.
Paragraph 3(d): States are called upon to become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999	Aviation Offences Act 1984 • S7(1) makes it an offence for a person on board an aircraft in flight to unlawfully, by use of force or by threats of any kind, to seize the aircraft or exercise control of it, whatever his nationality or citizenship, whatever the State of registration of the aircraft and whether the aircraft is in Malaysia or elsewhere	• S14 – general penalty • imprisonment for life	1. Malaysia is a party to 4 of the Conventions on terrorism. At present it is studying the other 8 Conventions to ascertain whether it may become a party thereto. 2. The terrorism Conventions to which Malaysia is already a party are the Conventions relating to safety in civil aviation: • The Convention on Offences and Certain Other Acts Committed On Board

- S7(2) provides that S7(1) does not apply if the aircraft is used in military, customs or police service unless –
  - the person seizing or exercising control of the aircraft is a citizen of Malaysia;
  - his act is committed in or over Malaysia; or
  - the aircraft is used in the military, customs or police service of Malaysia
- S8 makes it an offence to do any act of violence against the passengers or crew of any aircraft in flight in connection with the hijacking and provides that Malaysia is seized of the offence whatever the act of violence, whatever the State of registration of the aircraft and whatever the nationality or citizenship of the person committing the act
- S9(1) makes it an offence for any person to unlawfully and intentionally –
  - destroy an aircraft in service or so damage such aircraft as to render it incapable of flight or as to likely endanger its safety in flight
  - commit on board an aircraft in flight any act of violence that is likely to endanger the safety of the aircraft
- S9(2) makes it an offence for any person to unlawfully and intentionally place or cause to be placed on an aircraft in service any device or substance that is likely to destroy the aircraft or is likely so to damage it as to render it incapable of flight or as to be

- The Convention for the Suppression of Unlawful Seizure of Aircraft)
- The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation
- The Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation
- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruction.
- the Convention seeks to prohibit and eliminate the development, production and stockpiling of microbial or other biological agents or toxins that have no justification for prophylactic, protective or other peaceful purposes

likely to endanger its safety in flight

- S9(3) provides that Malaysia will be seized of the offences under S9 whether the acts are committed in Malaysia or elsewhere, whatever the State of registration of the aircraft or whatever the nationality or citizenship of the person committing the act
- S9(4) provides that no offence under S9(1) or (2) is committed if the act is committed in relation to an aircraft used in military, customs or police service unless -
- the act is committed in or over Malaysia; or
- where the act is committed outside Malaysia, the person committing the act is a citizen of Malaysia
- S10(1) makes it an offence for any person to unlawfully and intentionally destroy or damage any of the following property or interfere with its operation, where the destruction, damage or interference is likely to endanger the safety of an aircraft in flight:
- property used for the provision of air navigation facilities including any land, building or ship, and including any apparatus or equipment so used, whether it is on board an aircraft or elsewhereS13 makes it an offence for a person in Malaysia to abet the commission of the following offences elsewhere
- **hijacking under S7(1)**

	• **destroying or endangering the safety of aircraft under S9** • **damaging or interfering with navigation facilities under S10** • **S16 makes all these offences extradition offences under the Extradition Act 1992 and provides that where there is no extradition arrangement in force between Malaysia and a State that is a Party to –** • **the Convention on Offences and Certain Other Acts Committed On Board Aircraft** • **the Convention for the Suppression of Unlawful Seizure of Aircraft the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation** the relevant Convention may be used as the basis for extradition		
Paragraph 3(e): States are called upon to increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Resolutions 1269 (1999) and 1368 (2001)	-	-	1. Malaysia is already studying ways to implement the relevant Conventions, Protocols and resolutions. 2. In particular, the Central Bank of Malaysia has issued circulars dated 1.10.2001, 2.11.2001 and 23.11.2001 to implement Security Resolution 1267 (1999) and 1333 (2000).
Paragraph 3(f): States are called upon to take appropriate measures in conformity with the relevant provisions of national and	**International law** Convention on the Status of Refugees 1951		1. Malaysia is not party to the Convention on the Status of Refugees. 2. All non–citizens who seek to enter Malaysia or to become citizens

international law, including international standards of human rights, before granting refugee status, to ensure that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts	**Domestic law** Immigration Act 1959/1963 **Federal Constitution**		thereof are subject to and must comply with the relevant domestic laws which are generally stringent in nature.
Paragraph 3(g): States are called upon to ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists	• Extradition Act 1992 ◆ S8 disallows the extradition of a fugitive criminal if the offence for which his return is sought is of a political character • **International law** ◆ Convention on the Status of Refugees 1951		1. Malaysia is not party to the Convention on the Status of Refugees.
1. The application and enforcement of all the laws cited in the Table above are subject to the rule of law and the principles of natural justice, with the Legislative, Executive and Judicial branches of Government acting as checks and balances. Further safeguards for due process are also enshrined in the Federal Constitution and incorporated into the relevant laws. **2. The application and enforcement of all the laws cited in the Table above also depend in each and every case on the facts and circumstances and the evidence available.** **3. Malaysia should be able to satisfy the requirements of paragraph 3 of this Resolution.**			
Paragraph 4: Notes with concern the close connection between international terrorism and transnational organized crime, illicit drugs, money-laundering, illegal arms-trafficking, and illegal movement of nuclear, chemical, biological and other potentially deadly materials Emphasizes the need to enhance coordination of efforts on national, subregional, regional and international levels to strengthen a global response to this serious challenge and threat to international security	Relevant Malaysian laws are listed below: (a) Penal Code (b) Societies Act 1966 (c) Restricted Residence Act 1933 (d) Dangerous Drugs Act 1952 (e) Dangerous Drugs (Forfeiture of Property) Act 1988 (f) Anti-Money Laundering Act 2001 (g) Immigration Act 1959/63 (h) Passports Act 1966 (i) Arms Act 1960	The relevant laws have been discussed above.	1. Malaysia recognizes the importance of dealing with this aspect of terrorism. 2. Malaysia is currently considering signing the UN Convention against Transnational Organized Crime. 3. Malaysia is pursuing further coordination efforts and cooperation at all levels to combat terrorism. 4. Relevant laws are being studied to determine their adequacy and subsequently a policy decision will have to be made as to the direction that Malaysia should take in this regard.

	(j) Firearms (Increased Penalties) Act 1971 (k) Corrosive and Explosive Substances and Offensive Weapons Act 1958 (l) Explosives Act 1957 (m) Aviation Offences Act 1984 (n) Computer Crimes Act 1997 (o) Communications and Multimedia Act 1998 (p) Prevention and Control of Infectious Diseases Act 1988 (q) Postal Services Act 1991 (r) Poisons Act 1952 (s) Customs Act 1967 (t) Extradition Act 1992 (u) Mutual Assistance in Criminal Matters Bill 2001 (v) Atomic Energy Licensing Act 1984 (w) Poisons Act 1952 (x) Plant Quarantine Act 1976 (y) Animals Ordinance 1953		5. Other cooperative efforts are as follows: • **Subregional level** ◦ Agreement on Exchange of Information and Establishment of Communication Procedures (Malaysia, Indonesia and the Philippines) (being proposed) • **Regional level** ◦ ASEAN Plan of Action against Transnational Crime • **International level** ◦ INTERPOL ◦ UN Convention against Transnational Organized Crime and its Related Protocols

1. **The application and enforcement of all the laws cited in the Table above are subject to the rule of law and the principles of natural justice, with the Legislative, Executive and Judicial branches of Government acting as checks and balances. Further safeguards for due process are also enshrined in the Federal Constitution and incorporated into the relevant laws.**

2. **The application and enforcement of all the laws cited in the Table above also depend in each and every case on the facts and circumstances and the evidence available.**

3. **Malaysia is in compliance with the requirements of paragraph 4.**